

SUBCOMMITTEE ON ELECTIONS AND ETHICS — C.S.H.B. 75

FINANCE — C.S.H.B. 1538

ECONOMIC DEVELOPMENT — C.S.H.B. 1461, C.S.H.B. 466,
C.S.H.B. 958, C.S.H.B. 1540, C.S.H.B. 2662

FINANCE — H.B. 1873 (Amended), H.B. 2115 (Amended), H.B. 1719
(Amended), H.B. 737

SENT TO GOVERNOR

(May 22, 1993)

S.C.R. 62	S.B. 477
S.C.R. 81	S.B. 485
S.B. 87	S.B. 561
S.B. 184	S.B. 640
S.B. 301	S.B. 701
S.B. 323	S.B. 706
S.B. 335	S.B. 857
S.B. 387	S.B. 877
S.B. 398	S.B. 936
S.B. 403	S.B. 953
S.B. 418	S.B. 1379

SEVENTY-FOURTH DAY

(Sunday, May 23, 1993)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by Senator Ellis.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Turner.

A quorum was announced present.

Senate Doorkeeper James Morris offered the invocation as follows:

Heavenly Father, on this Sabbath we pray and ask that You hear our petition for a day that brings satisfaction with ourselves. Give to each of us a sense of genuine worth and increase our usefulness in the world around us. We know that God governs in the affairs of men and women and ask that You give to these assembled the knowledge and determination to work through the difficult but solveable issues requiring answers in the remaining hours of this session. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

On motion of Senator Harris of Dallas, Senator Turner was granted leave of absence for today on account of important business.

SENATE BILL 79 WITH HOUSE AMENDMENTS

Senator Zaffirini called S.B. 79 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

1. Amend S.B. 79 on page ____, line ____ by adding a new section to read as follows:

SECTION ____. TRANSITION. The Health and Human Services Commission and the Texas Department of Health may contract with other state agencies to implement Title XIX of the Social Security Act to the same extent as granted to the Texas Department of Human Services under Sec. 32.023, Human Resources Code.

2. Delete Section 2, Subsection (g).

Committee Amendment No. 2

Amend S.B. 79 at Section 1 to read as follows:

Section 1. Subsection (a), Section 32.027, Human Resources Code, is amended to read as follows:

(a) Except as provided by Subsections (f), (g), and (h), a recipient of medical assistance authorized in this chapter may select any provider authorized by the department to provide medical assistance.

Amend S.B. 79 at SECTION 2 by adding 2 new Subsections (g) and (h) to read as follows:

(g) The process to select a hospital must afford each disproportionate share hospital an opportunity to negotiate for a contract. The process will take into account the special circumstances of disproportionate share hospitals when evaluating proposals.

(h) A proposal or bid submitted by a hospital and any work papers, cost reports, or other financial data used to prepare the proposal or bid shall be confidential and not subject to required disclosure by the department or the hospital under any other statute until the executed contracts have been awarded.

Amendment No. 3

Amend S.B. 79 by adding a new SECTION 3 and renumbering accordingly. The new SECTION 3 will read as follows:

SECTION 32.029, Human Resources Code, is amended to add Subsection (e) to read as follows:

(e) The department or its designee must notify providers of health care services in clear and concise language of the status of their claims on any claim not paid or denied within 30 days of receipt by the payor.

The amendments were read.

On motion of Senator Zaffirini and by unanimous consent, the Senate concurred in the House amendments to S.B. 79 by a viva voce vote.

SENATE BILL 26 WITH HOUSE AMENDMENT

Senator Moncrief called S.B. 26 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

S.B. 26 is amended by deleting all below the enacting clause and substituting the following:

SECTION 1. Section 2, Article 5.03-2, Insurance Code, is amended to read as follows:

Sec. 2. DISCOUNT REQUIRED ~~[PERMITTED]~~. (a) An insurer who delivers or issues for delivery in this state comprehensive insurance coverage on a motor vehicle ~~shall~~ [may], upon receipt of written verification from the insured that the insured motor vehicle is equipped with a qualifying antitheft device, grant a discount in the amount provided by Subsection (c) of this section in the premiums charged for the comprehensive insurance for the motor vehicle if the motor vehicle is equipped with an antitheft device that qualifies under this article.

(b) An insurer ~~shall~~ [may], upon receipt of written verification from the insured that the insured motorcycle is equipped with a qualifying antitheft device, grant a discount in the premiums charged for comprehensive insurance for a motorcycle or motorbicycle in an amount greater than a Category I or Category II discount if the State Board of Insurance, by rule, authorizes additional discounts based on the installation of additional antitheft devices that are designed for use on motorcycles or motorbicycles.

(c) The discounts under this article shall be set by the State Board of Insurance.

SECTION 2. Section 6A, Article 5.03-2, Insurance Code, is amended to read as follows:

Sec. A. CATEGORY V DISCOUNT. A Category V discount ~~shall~~ [may], upon receipt of written verification from the insured that the insured motor vehicle is equipped with a qualifying stolen vehicle recovery system, be granted for a motor vehicle that qualifies under Category IV and is equipped with a stolen vehicle recovery system.

SECTION 3. This Act takes effect September 1, 1993.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be

read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Moncrief and by unanimous consent, the Senate concurred in the House amendment to S.B. 26 by a viva voce vote.

SENATE BILL 28 WITH HOUSE AMENDMENT

Senator Moncrief called S.B. 28 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend S.B. 28 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to procedural and fire safety requirements relating to long-term care facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 242.039, Health and Safety Code, is amended to read as follows:

Sec. 242.039. FIRE SAFETY REQUIREMENTS. (a) The board shall adopt rules necessary to specify the edition of the Life Safety Code of the National Fire Protection Association that will be used to establish the life safety requirements for an institution licensed under this chapter.

(b) The board shall adopt the edition of the Life Safety Code of the National Fire Protection Association for fire safety as designated by federal law and regulations for an institution or portion of an institution that is constructed after September 1, 1993, and for an institution or portion of an institution that was operating or approved for construction on or before September 1, 1993.

(c) The board may not require more stringent fire safety standards than those required by federal law and regulation. The rules adopted under this section may not prevent an institution licensed under this chapter from voluntarily conforming to fire safety standards that are compatible with, equal to, or more stringent than those adopted by the board.

(d) Licensed health care facilities in existence at the time of the effective date of this subsection may have their existing use or occupancy continued if such facility complies with fire safety standards and ordinances in existence at the time of the effective date of this subsection.

(e) Notwithstanding any other provision of this section, a municipality shall have the authority to enact additional and higher fire safety standards applicable to new construction beginning on or after the effective date of this subsection.

(f) An advisory committee is created to propose rules for adoption by the department concerning the applicability of municipal ordinances and

regulations to the remodeling and renovation of existing structures to be used as health care facilities licensed under this chapter.

(2) The advisory committee shall be appointed by the board and composed as follows:

(A) two municipal fire marshals;

(B) four individuals representing the nursing home industry;

(C) the commissioner of human services or designee;

(D) one building official from a municipality that has adopted the Uniform Building Code;

(E) one building official from a municipality that has adopted the Standard Building Code;

(F) one architect licensed under state law;

(G) one member of the Texas Board of Human Services;

and

(H) one state Medicaid director or designee.

(3) The advisory committee shall serve without compensation or remuneration of any kind. [An institution licensed under this chapter shall comply with the 1985 edition of the Code for Safety to Life from Fire in Buildings and Structures, known as the Life Safety Code (Pamphlet No. 101) of the National Fire Protection Association. The department shall determine which occupancy chapter of that code is applicable to an institution other than a nursing home or custodial care home.]

[(b) A nursing home or custodial care home or a portion of a home that was operating or approved for construction before September 1, 1987, must comply with the Life Safety Code provisions relating to existing construction:

[(c) A nursing home or custodial care home or a portion of a home that is operating or approved for construction on or after September 1, 1987, must comply with the Life Safety Code provisions relating to new construction:

[(d) This section does not preclude an institution from conforming to a higher or additional fire safety standard or provision.]

SECTION 2. Section 242.094, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) Venue for an action brought under this section is in Travis County.

SECTION 3. This Act takes effect September 1, 1993.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Moncrief and by unanimous consent, the Senate concurred in the House amendment to S.B. 28 by a viva voce vote.

SENATE BILL 332 WITH HOUSE AMENDMENTS

Senator Moncrief called S.B. 332 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1

Amend S.B. 332 as follows:

(1) In Section 1 amend Sec. 313.002 by striking Subsection (10) (Page 2, lines 16-19). Renumber Subsection (11) accordingly.

(2) In Section 1 amend Sec. 313.004, Health and Safety Code by striking Subsection (d) (page 4, lines 14 through 20) and replace with:

(d) Notwithstanding any other provision of this chapter, a surrogate decision-maker may not consent to:

(1) voluntary inpatient mental health services;

(2) electro-convulsive treatment; or

(3) the appointment of another surrogate decision-maker.

Amendment No. 2

Amend S.B. 332 in Section 1 of the bill as follows:

(1) In added Section 313.003(a)(2), Health and Safety Code, between "Code" and the semicolon, insert ", or under Chapter XII, Texas Probate Code".

(2) In added Section 313.004(a), Health and Safety Code, between "list" and "who", insert "in order of priority".

(3) In added Section 313.004(a), Health and Safety Code, strike Subdivisions (3) and (4), and substitute the following:

(3) a majority of the patient's reasonably available adult children;

(4) the patient's parents; or

(5) the individual clearly identified to act for the patient by the patient before the patient became incapacitated, the patient's nearest living relative, or a member of the clergy who knows the patient.

(4) In added Section 313.004(b), Health and Safety Code, between "record" and "under", insert "having jurisdiction".

(5) In added Section 313.005, Health and Safety Code, strike Subsection (a), and substitute the following: (a) If an adult patient in a hospital or nursing home is comatose, incapacitated, or otherwise mentally or physically incapable of communication and, according to reasonable medical judgment, is in need of medical treatment, the attending physician shall describe the:

(1) patient's comatose state, incapacity, or other mental or physical inability to communicate in the patient's medical record; and

(2) proposed medical treatment in the patient's medical record.

(6) In added Section 313.005(b), Health and Safety Code, between "recorded" and "in", insert "in detail".

The amendments were read.

On motion of Senator Moncrief and by unanimous consent, the Senate concurred in the House amendments to S.B. 332 by a viva voce vote.

SENATE BILL 160 WITH HOUSE AMENDMENTS

Senator Moncrief called S.B. 160 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1

Amend S.B. 160 by inserting the following sections, appropriately numbered, to read as follows and renumbering subsequent sections appropriately:

SECTION _____. Section 222.042, Health and Safety Code, is amended to read as follows:

Sec. 222.042. LICENSING OF ICF-MR BEDS AND FACILITIES. The department may not license or approve as meeting licensing standards new ICF-MR beds or the expansion of an existing ICF-MR facility unless:

~~[(1)] the new beds or the expansion was included in the plan approved by the Health and Human Services Commission in accordance with Section 533.062 [Interagency Council on ICF-MR Facilities in accordance with Section 2.43, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes); and~~

~~[(2)] the Texas Department of Mental Health and Mental Retardation has approved the beds or the expansion for certification in accordance with Section 2.44, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes)].~~

SECTION _____. Section 533.062, Health and Safety Code, is amended to read as follows:

Sec. 533.062. PLAN ON LONG-TERM CARE FOR PERSONS WITH MENTAL RETARDATION ~~[ICF-MR FACILITIES]~~. (a) The department shall biennially develop a proposed ~~[annually]~~ plan on long-term care for persons with mental retardation ~~[for the creation of new beds in the ICF-MR program]~~.

(b) The proposed plan must specify the capacity of the HCS waiver program for persons with mental retardation and the number and levels of new ICF-MR beds to be authorized ~~[created]~~ in each region. In developing the proposed plan, the department shall consider:

(1) the needs of the population to be served;

(2) projected appropriation amounts for the biennium ~~[the resources of the governmental entities responsible for providing services];~~ and

(3) the requirements of applicable federal law.

(c) Each proposed plan shall cover the subsequent fiscal biennium ~~[year]~~. The department shall conduct a public hearing on the proposed plan. Not later than July 1 of each even-numbered year, the department shall submit the plan to the Health and Human Services Commission ~~[Interagency Council on ICF-MR Facilities]~~ for approval.

(d) The Health and Human Services Commission may modify the proposed plan as necessary before its final approval. In determining the appropriate number of ICF-MR facilities for persons with a related condition, the department and the Health and Human Services Commission shall consult with the Texas Department of Human Services ~~[The board by rule shall adopt the plan approved by the Interagency Council on ICF-MR Facilities]~~.

(e) The Health and Human Services Commission shall submit the proposed plan as part of the consolidated health and human services budget recommendation required under Section 13, Article 4413(502), Revised Statutes [The department may submit to the Interagency Council on ICF-MR Facilities proposed amendments to a plan in operation that the department considers necessary].

(f) After legislative action on the appropriation for long-term care services for persons with mental retardation, the Health and Human Services Commission shall adjust the plan to ensure that the number of ICF-MR beds licensed or approved as meeting license requirements and the capacity of the HCS waiver program are within appropriated funding amounts.

(g) After any necessary adjustments, the Health and Human Services Commission shall approve the final biennial plan and publish the plan in the Texas Register.

(h) The department may submit proposed amendments to the plan to the Health and Human Services Commission.

(i) In this section, "HCS waiver program" means services under the state Medicaid home and community-based services waiver program for persons with mental retardation adopted in accordance with 42 U.S.C. Section 1396n(c).

SECTION _____. Section 533.061, Health and Safety Code, is repealed.

SECTION _____. (a) Not later than October 1, 1993, the Texas Department of Mental Health and Mental Retardation shall submit to the Health and Human Services Commission the proposed plan for the 1994-1995 biennium as required by Section 533.062, Health and Safety Code, as amended by this Act.

(b) In addition to the changes in law made by this Act relating to the provision of services to persons with mental retardation, this Act conforms certain provisions of the Health and Safety Code relating to the provision of those services to changes in the law made by Section 1, Chapter 248, Acts of the 72nd Legislature, Regular Session, 1991.

(c) Section 1, Chapter 248, Acts of the 72nd Legislature, Regular Session, 1991, is repealed.

SECTION _____. This Act does not affect the transfer of powers, duties, rights, and obligations of the Texas Department of Health to the Texas Department of Human Services or another agency as prescribed by Section 1.11, Chapter 15, Acts of the 72nd Legislature, 1st Called Session, 1991, or by any other law.

Amendment No. 2

Amend S.B. 160 as follows:

(1) Strike Section 7 of the bill (page 7, lines 8-15, House Committee Report) and substitute the following:

SECTION 7. (a) Sections 534.021(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A community center must receive from the department prior written approval to acquire real property, including a building, if the acquisition involves the use of department funds or local funds required to match

department funds. In addition, for acquisition of nonresidential property, the community center must notify each local agency that appoints members to the board of trustees not later than the 31st day before it enters into a binding obligation to acquire the property.

(b) A community center must notify the department and each local agency that appoints members to the board of trustees not later than the 31st ~~[61st]~~ day before it enters into a binding obligation to acquire real property, including a building, if the acquisition does not involve the use of department funds or local funds required to match department funds. The commissioner, on request, may waive the 30-day ~~[60-day]~~ requirement on a case-by-case basis.

(b) This section takes effect September 1, 1993, and applies only to a binding obligation to acquire real property entered into on or after the effective date of this section.

(2) Add a new Section 12 (page 10, between lines 7 and 8, House Committee Report) to read as follows:

SECTION 12. Chapter 123, Human Resources Code, is amended by adding Section 123.010 to read as follows:

Sec. 123.010. ENSURING THE SAFETY OF RESIDENTS. The Texas Department of Mental Health and Mental Retardation shall make every reasonable effort to ensure the safety of community home residents and the residents of a neighborhood that is affected by the location of a community home.

(3) Strike Section 14(b) of the bill (page 10, lines 15-16, House Committee Report) and substitute the following:

(b) Sections 5, 7, and 8 of this Act take effect as provided by those sections.

(4) Renumber subsequent sections of the bill appropriately.

The amendments were read.

Senator Moncrief moved to concur in the House amendments to **S.B. 160.**

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

MESSAGE FROM THE HOUSE

House Chamber

May 23, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 12, Relating to access to personal information about jurors in a criminal trial.

S.B. 13, Relating to the murder of an individual under six years of age as a capital offense. (As amended)

S.B. 16, Relating to drug-free zones and to the imposition of penalties for delivering, manufacturing, or possessing with the intent to deliver or manufacture a controlled substance in drug-free zones. (As amended)

S.B. 46, Relating to a reversal of a conviction in a criminal case on the grounds of service by a disqualified juror.

S.B. 76, Relating to appeals of certain interlocutory orders and judgments upholding those orders. (As amended)

S.B. 95, Relating to the recruitment of teachers, including assistance in the repayment of student loans for teachers. (As amended)

S.B. 113, Relating to the review of the uniform general conditions of state building construction contracts. (As amended)

S.B. 137, Relating to the continuing education of plumbers.

S.B. 145, Relating to the creation of the offense of discharging a firearm in certain metropolitan areas. (As amended)

S.B. 155, Relating to the creation of the Texas Commission on Children. (As amended)

S.B. 163, Relating to the protection of buildings and grounds at private institutions of higher education. (As substituted)

S.B. 183, Relating to the tuition exemption at institutions of higher education for students who are blind or deaf. (As substituted)

S.B. 202, Relating to the State Pension Review Board fund.

S.B. 205, Relating to the regulation of the provision of services to persons with certain disabilities or in need of counseling in a crisis or an emergency; creating offenses and providing civil and criminal penalties. (As amended)

S.B. 207, Relating to the regulation of the provision of mental health and chemical dependency services. (As amended)

S.B. 210, Relating to the regulation of the provision of health care services and mental health services to persons with certain disabilities; providing civil and criminal penalties. (As amended)

S.B. 212, Relating to the regulation of medical rehabilitation services. (As amended)

S.B. 226, Relating to the competitive bidding requirements of governmental entities and certain duties of the Office of Small Business Assistance. (As amended)

S.B. 239, Relating to funding for certain public institutions of higher education.

S.B. 243, Relating to a fee to finance security services for buildings housing a district or county court.

S.B. 246, Relating to the conveyance of property from a county to Texas A&I University Foundation, Inc.

S.B. 251, Relating to the conversion of the McAllen extension center of Texas State Technical College to a joint-county junior college. (As substituted)

S.B. 252, Relating to continuity of care programs for offenders in the criminal justice system who are mentally impaired, elderly, physically disabled, terminally ill, or significantly ill.

S.B. 271, Relating to the authority of the Railroad Commission of Texas to implement conservation and distribution plans for alternative fuels.

S.B. 277, Relating to reporting a finding of paternity to the State Registrar of Vital Statistics. (As amended)

S.B. 281, Relating to exempting certain facilities from licensure under the Personal Care Facility Licensing Act.

S.B. 284, Relating to the definition of a dependent child for the purpose of eligibility for AFDC.

S.B. 297, Relating to funding for school counseling programs. (As amended)

S.B. 314, Relating to a real estate broker's or salesman's ability to represent more than one party to a transaction.

S.B. 324, Relating to establishing the amount of bail in a criminal case.

S.B. 338, Relating to requiring as a condition of parole or release to mandatory supervision for certain releasees that the releasees submit to treatment or counseling for substance abuse.

S.B. 339, Relating to the qualifications of sheriffs. (As substituted)

S.B. 381, Relating to the acquisition or provision of goods, services, and records by the state. (As substituted and amended)

S.B. 386, Relating to the liability of persons providing emergency care.

S.B. 393, Relating to financial assistance to school districts for programs for students who are at risk of dropping out, including students who are pregnant and students who are parents; administration of the equivalency examination pilot program; and notification to school districts of births to school-age students. (As amended)

S.B. 452, Relating to the regulation and operation of tow trucks and storage facilities; providing penalties. (As substituted and amended)

S.B. 472, Relating to the practice of pharmacy, including the Texas State Board of Pharmacy, dangerous drugs, and controlled substances. (As amended)

S.B. 487, Relating to the establishment of the Texas Academy of Foreign Languages and Culture. (As substituted and amended)

S.B. 555, Relating to provision of certain mental health and substance abuse services through single service health maintenance organizations. (As amended)

S.B. 590, Relating to the disposition of stolen property. (As amended)

S.B. 617, Relating to transfer of the functions of the Legislative Education Board to the Legislative Budget Board and certain legislative committees.

S.B. 671, Relating to the requirement that institutions of higher education deposit certain funds and receipts in the state treasury. (As substituted)

S.B. 684, Relating to the regulation of emissions from an agricultural operation. (As substituted)

S.B. 722, Relating to the authority of a justice of the peace to order community service in satisfaction of fine or costs. (As substituted and amended)

S.B. 737, Relating to the use of alternative fuels. (As substituted and amended)

S.B. 826, Relating to authorizing school districts to acquire, use and purchase real property, and declaring an emergency.

S.B. 839, Relating to the regulation of the practice of vocational nursing and to the continuation of the Board of Vocational Nurse Examiners; providing penalties. (As substituted and amended)

S.B. 841, Relating to authorizing certain courts to employ peace officers.

S.B. 842, Relating to the power of certain licensing agencies to issue subpoenas in enforcement proceedings.

S.B. 878, Relating to the value of certain types of property for purposes of property taxation and to the prepayment of property taxes by certain taxpayers. (As substituted)

S.B. 947, Relating to continuing legal education, technical assistance and other support programs for prosecuting attorneys and their personnel and for criminal defense attorneys who regularly represent indigent defendants. (As amended)

S.B. 952, Relating to the authority of certain cities to adopt and release extraterritorial jurisdiction. (As substituted)

S.B. 954, Relating to operation of court reporter proprietary schools and programs. (As amended)

S.B. 1049, Relating to the prevention of, the damage, cleanup, and costs related to, and liability for oil spills in coastal waters of the state; providing for response to the discharge of oil and other pollutants in the coastal waters of the state; authorizing an appropriation from the coastal protection fund. (As amended)

S.B. 1061, Relating to the continuation and functions of the Texas Board of Chiropractic Examiners and to the regulation of the practice of chiropractic; providing penalties. (As amended)

S.B. 1197, Relating to the exemption of certain substances from Schedules I through V of the Texas Controlled Substances Act.

S.B. 1201, Relating to industrial solid waste and hazardous waste fee revenues; recovery of regulatory and remediation costs.

S.B. 1206, Relating to the Texas Low-Level Radioactive Waste Disposal Compact. (As amended)

S.B. 1243, Relating to the receipt, management, and expenditure of funds in the state treasury and the petroleum storage tank remediation fund.

S.B. 1272, Relating to the allocation and reservation system for private activity bonds and to the definition of certain bonds.

S.B. 1285, Relating to the forfeiture of certain property used in violations of the Texas Litter Abatement Act. (As substituted and amended)

S.B. 1293, Relating to certain tax-free purchases of diesel fuel.

S.B. 1334, Relating to the rulemaking authority of the Texas Water Commission regarding underground water.

S.B. 1364, Relating to municipal civil service in certain municipalities. (As amended)

S.B. 1424, Relating to the regulation of psychologists and to the continuation of the Texas State Board of Examiners of Psychologists; providing penalties. (As substituted and amended)

S.B. 1467, Relating to the validation of certain acts and proceedings of certain corporations created under the Health Facilities Development Act and to the authority of corporations created under that act to refund outstanding bonds. (As amended)

S.B. 1470, Relating to the provision of certain services to elderly persons by the Texas Department on Aging and the Texas Department of Human Services.

S.J.R. 18, Proposing a constitutional amendment authorizing the legislature to prescribe the qualifications of sheriffs.

S.C.R. 1, Urging the electronic benefit transfer project under the guidance of the citizens task force and the various cooperating state agencies, to set 1995 as the goal for the statewide implementation of the electronic benefit transfer system.

S.C.R. 42, Declaring July, 1993, as Immunization Month in Texas. (As substituted)

H.C.R. 125, Urging the Congress of the United States not to adopt the administration's proposed inland waterways fuel tax increase.

The House has refused to concur in Senate amendments to **H.B. 1166** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Raymond, Chair; Carter, Denton, Oakley, and Bailey.

The House has concurred in Senate amendments to **H.B. 1269** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1598** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1852** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1933** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2007** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2270** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2297** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2647** by a non-record vote.

The House has discharged the conferees and concurred in Senate amendments to **H.B. 1116** by a record vote of 127 Ayes, 0 Nays, and 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 23** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 70** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 76** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 162** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 372** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 670** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 740** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1091** by a non-record vote.

S.B. 702, Relating to the application of the Texas Health Maintenance Organization Act to hospital districts. (As substituted)

The House has concurred in Senate amendments to **H.B. 1356** by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 1140 WITH HOUSE AMENDMENT

Senator Moncrief called S.B. 1140 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend S.B. 1140 by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the authority of counties to create a sick leave pool program for county employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 157, Local Government Code, is amended by adding Subchapter E to read as follows:

**SUBCHAPTER E. POOLING OF SICK LEAVE BY
COUNTY EMPLOYEES**

Sec. 157.071. DEFINITIONS. In this subchapter:

(1) "Administrator" means the person designated by the commissioners court of a county to administer the county's sick leave pool program.

(2) "Employee" means a district, county, or precinct employee paid from the general fund of the county or from special grants paid through the county.

Sec. 157.072. AUTHORITY TO ESTABLISH PROGRAM FOR SICK LEAVE POOL. The commissioners court of a county may establish a program within the county to allow an employee to voluntarily transfer sick leave time earned by the employee to a county sick leave pool.

Sec. 157.073. ADMINISTRATION OF SICK LEAVE POOL PROGRAM. (a) The commissioners court may adopt rules and prescribe procedures and forms relating to the operation of the county sick leave pool program.

(b) The commissioners court shall designate a person to administer the county sick leave pool program.

(c) The commissioners court shall determine which injuries and illnesses are classified as catastrophic for purposes of this subchapter. The court shall provide to the administrator a written statement of that classification.

Sec. 157.074. EMPLOYEE CONTRIBUTION TO SICK LEAVE POOL.

(a) To contribute time to the county sick leave pool, an employee must submit an application to the administrator in the form prescribed by the commissioners court.

(b) On approval by the administrator, in a fiscal year the employee may transfer to the county sick leave pool not less than one day or more than three days of accrued sick leave time earned by the employee. The administrator shall credit the pool with the amount of time contributed by

the employee and shall deduct the same amount of time from the amount to which the employee is entitled, as if the employee had used the time for personal purposes.

Sec. 157.075. EMPLOYEE WITHDRAWAL FROM SICK LEAVE POOL. (a) An employee is eligible to use time contributed to the county sick leave pool if, because of a catastrophic injury or illness or because of a previous donation of sick leave time to the pool, the employee has exhausted all the sick leave time to which the employee is otherwise entitled.

(b) An eligible employee must apply to the administrator for permission to use time in the county sick leave pool. If the administrator determines that the employee is eligible, the administrator shall approve the transfer of time from the pool to the employee. The administrator shall credit the time to the employee, and the employee may use the time in the same manner as sick leave earned by the employee in the course of employment.

(c) An eligible employee may not use time in the county sick leave pool in an amount that exceeds the lesser of one-third of the total amount of time in the pool or 90 days. The administrator shall determine the exact amount that an eligible employee may use.

(d) An employee absent on sick leave assigned from the county sick leave pool is treated for all purposes as if the employee were absent on earned sick leave.

(e) The estate of a deceased employee is not entitled to payment for unused sick leave acquired by that employee from the county sick leave pool.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Moncrief moved to concur in the House amendment to S.B. 1140.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

SENATE BILL 208 WITH HOUSE AMENDMENT

Senator Harris of Tarrant called S.B. 208 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend S.B. 208 as follows:

On page 1, line 8, after “insurer” and before “prepares” insert “causes to be”.

On page 1, line 8, strike “prepares” and substitute “prepared”.

The amendment was read.

On motion of Senator Harris of Tarrant and by unanimous consent, the Senate concurred in the House amendment to S.B. 208 by a viva voce vote.

SENATE BILL 400 WITH HOUSE AMENDMENTS

Senator Harris of Tarrant called S.B. 400 from the President’s table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend S.B. 400, line 13, page 1, by changing the “15 days” to “30 days”; by deleting the word “immediately” on line 19, page 1, and inserting in lieu thereof the word “5 business days”;

On line 21, page 1, insert the following language between the word “report” and “containing”: “from the third party debt collector”.

Amend line 14, page 2, by deleting the word “person” and inserting in lieu thereof the words “third party debt collector entity whether a sole proprietorship, firm, partnership or corporation”, and

On line 7, page 3, by changing the period to a comma and adding the following language thereto:

“unless the attorney has non-attorney employees who are regularly engaged to solicit debts for collection or who regularly make contact with debtors for the purpose of collection or adjustment of the debt.”

Amendment on Third Reading

Amend S.B. 400 by adding the following paragraph (j) to Section 1 of the bill:

(j) The provisions of this section apply to any person who, for compensation, gathers, records or disseminates information relative to the credit worthiness, financial responsibility, paying habits and other similar information regarding any person, for the purpose of furnishing such information to any other person.

The amendments were read.

On motion of Senator Harris of Tarrant and by unanimous consent, the Senate concurred in the House amendments to S.B. 400 by a viva voce vote.

SENATE BILL 738 WITH HOUSE AMENDMENT

Senator Rosson called S.B. 738 from the President’s table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend S.B. 738 as follows:

On page 1, line 21, after the word motorcycle, add "and bicycle"

On page 2, line 3, after the word motorcycle, add "and bicycle"

The amendment was read.

On motion of Senator Rosson and by unanimous consent, the Senate concurred in the House amendment to S.B. 738 by a viva voce vote.

SENATE BILL 383 WITH HOUSE AMENDMENTS

Senator Truan called S.B. 383 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend S.B. 383 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the existence, composition, and expenses of state agency advisory committees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 110A, Revised Statutes, is amended by adding Article 6252-33 to read as follows:

Art. 6252-33. STATE AGENCY ADVISORY COMMITTEES

Sec. 1. DEFINITION. In this article, "advisory committee" means a committee, council, commission, task force, or other entity in the executive branch of state government that:

- (1) is not a state agency;
- (2) is created by or under state law; and
- (3) has as its primary function advising a state agency.

Sec. 2. COMPOSITION OF ADVISORY COMMITTEES.

(a) Notwithstanding other law, an advisory committee must be composed of a reasonable number of members not to exceed 24 members. The composition of the committee must also provide a balanced representation between:

(1) industries or occupations regulated or directly affected by the advised state agency; and

(2) consumers of services provided either by the advised state agency or by industries or occupations regulated by the agency.

(b) This section does not apply to an advisory committee if the committee must be composed in a manner that is inconsistent with this section under federal law or for federal funding purposes.

Sec. 3. PRESIDING OFFICER. (a) An advisory committee shall select from among its members a presiding officer, unless a different procedure for selecting the presiding officer is prescribed by other law.

(b) The presiding officer shall preside over the advisory committee and report to the advised state agency.

Sec. 4. REIMBURSEMENT OF MEMBERS' EXPENSES: APPROPRIATIONS PROCESS. (a) Notwithstanding other law, the manner and amount of reimbursement for expenses, including travel expenses, of members of an advisory committee may be prescribed only:

(1) by the General Appropriations Act; or

(2) through the budget execution process under Chapter 317, Government Code, if the advisory committee is created after it is practicable to address the existence of the committee in the General Appropriations Act.

(b) A state agency that is advised by an advisory committee must request authority to reimburse the expenses of members of the committee through the appropriations or budget execution process, as appropriate, if the agency determines that the expenses of committee members should be reimbursed. The request must:

(1) identify the costs related to the advisory committee's existence, including the cost of agency staff time spent in support of the committee's activities;

(2) state the reasons the advisory committee should continue in existence; and

(3) identify any other advisory committees created to advise the agency that should be consolidated or abolished.

(c) As part of the appropriations and budget execution process, the governor and the Legislative Budget Board shall jointly identify advisory committees that should be abolished. The comptroller may recommend to the governor and the Legislative Budget Board that an advisory committee should be abolished.

(d) The General Appropriations Act may provide for reimbursing the expenses of members of certain advisory committees without providing for reimbursing the expenses of members of other advisory committees.

(e) This section does not apply to an advisory committee the services of which are determined by the governing board of a retirement system trust fund to be necessary for the performance of the governing board's fiduciary duties under the Texas Constitution.

Sec. 5. AGENCY-DEVELOPED STATEMENT OF PURPOSE: REPORTING REQUIREMENTS. A state agency that is advised by an advisory committee shall adopt rules that:

(1) state the purpose of the committee; and

(2) describe the task of the committee and the manner in which the committee will report to the agency.

Sec. 6. AGENCY EVALUATION OF COMMITTEE COSTS AND EFFECTIVENESS. A state agency that is advised by an advisory committee shall annually evaluate:

(1) the committee's work;

(2) the committee's usefulness; and

(3) the costs related to the committee's existence, including the cost of agency staff time spent in support of the committee's activities.

Sec. 7. REPORT TO THE LEGISLATIVE BUDGET BOARD. A state agency that is advised by an advisory committee shall report to the Legislative Budget Board the information developed in the evaluation required by Section 6 of this article. The report shall be filed biennially in connection with the agency's request for appropriations.

Sec. 8. DURATION OF ADVISORY COMMITTEES. (a) A state agency that is advised by an advisory committee shall establish by rule a date on which the committee will automatically be abolished. The advisory committee may continue in existence after that date only if the governing body of the agency affirmatively votes to continue the committee in existence.

(b) An advisory committee is automatically abolished on the fourth anniversary of the date of its creation unless the governing body of the agency establishes a different date under Subsection (a) of this section.

(c) This section does not apply to an advisory committee that has a specific duration prescribed by statute.

SECTION 2. As soon as possible after the effective date of this Act, a state agency that is advised by an advisory committee that is not composed in accordance with Section 2, Article 6252-33, Revised Statutes, as added by this Act, shall add or subtract members of the advisory committee, as appropriate, to bring the composition of the committee into compliance with Section 2. If the law, order, or resolution that created the advisory committee provided that more than one appointing authority would appoint a stated number of members to the committee, the agency shall preserve the ratio of members appointed by the different appointing authorities. The agency may subtract members of an advisory committee as necessary to bring its composition into compliance with Section 2 by agreement among the affected members, by lot, or by some other reasonable method.

SECTION 3. An advisory committee as defined in Article 6252-33, Revised Statutes, as added by this Act, that exists as of September 1, 1993, is automatically abolished September 1, 1997, unless:

(1) the governing body of the agency establishes a different date under Section 8, Article 6252-33, Revised Statutes; or

(2) the advisory committee has a specific duration prescribed by statute.

SECTION 4. The following advisory entities are abolished:

(1) the Transportation Audit Committee, created by Chapter 23, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6663d, Vernon's Texas Civil Statutes);

(2) the Campaign Finance Reform Task Force, created by executive order;

(3) the Committee on Water Resources, created by executive order;

(4) the Health Maintenance Organization Advisory Committee to the Texas Department of Health;

(5) the Criminal Justice Education Project Advisory Committee, created by executive order;

(6) the Task Force on Public Utility Regulation, created by executive order;

(7) the Task Force on Waste Management Policy, created under the authority of legislative resolutions;

(8) the Texas Science and Technology Council, created by executive order;

(9) the State Complete Count Census Committee, created by executive order;

(10) the Governor's Welfare Reform Task Force, created by executive order;

(11) the Design Advisory Panel to the General Services Commission created by Section 5.20(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes);

(12) the advisory committee to the Motorcycle Operator Training and Safety Program, created by Section 3, Article 6701c-4, Revised Statutes;

(13) the Texas Summit Committee, appointed to advise the Texas Commission on Alcohol and Drug Abuse under Section 461.012, Health and Safety Code, on developing and promoting a culturally relevant abuse prevention strategy;

(14) the Joint Interim Committee on Proprietary Schools, created by Section 4.33, Chapter 813, Acts of the 71st Legislature, Regular Session, 1989;

(15) the Paperwork Reduction Advisory Committee, appointed to advise the Central Education Agency in accomplishing its duties under Section 21.925, Education Code;

(16) the Committee on State Revenue Estimates, created by Section 403.122, Government Code; and

(17) the FIRST Committee, created by Chapter 436, Acts of the 67th Legislature, Regular Session, 1981 (Article 4413(57), Vernon's Texas Civil Statutes).

SECTION 5. The following laws are repealed:

(1) Section 5.20(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes);

(2) Chapter 23, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6663d, Vernon's Texas Civil Statutes);

(3) Section 3, Article 6701c-4, Revised Statutes;

(4) Section 4.33, Chapter 813, Acts of the 71st Legislature, Regular Session, 1989;

(5) Section 403.122, Government Code; and

(6) Chapter 436, Acts of the 67th Legislature, Regular Session, 1981 (Article 4413(57), Vernon's Texas Civil Statutes).

SECTION 6. This Act takes effect September 1, 1993.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 1

Amend C.S.S.B. 383 as follows:

1. Amend Section 4 on page 7, line 5, by striking "and".
2. Amend Section 4 on page 7, by adding the following:
 "(18) the Dairy Advisory Board to the Texas Department of Agriculture; and
 (19) the Family Farm and Ranch Advisory Council to the Texas Department of Agriculture".
3. Amend Section 5 on page 7, line 18, by striking "and".
4. Amend Section 5 on page 7, by adding the following:
 "(7) Section 13.202 of the Agriculture Code; and
 (8) Section 252.013 of the Agriculture Code".

The amendments were read.

On motion of Senator Truan and by unanimous consent, the Senate concurred in the House amendments to S.B. 383 by a viva voce vote.

(Senator Harris of Tarrant in Chair)

SENATE BILL 127 WITH HOUSE AMENDMENT

Senator Leedom called S.B. 127 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend S.B. 127 by striking Sections 2 and 3 of the bill, substituting the following Sections 2-4, and renumbering subsequent sections appropriately:

SECTION 2. The manager of each state trust fund shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the executive director of the State Pension Review Board:

(1) not later than January 25 of each year, a report with the information required by Section 3 of this Act covering the last six months of the previous calendar year; and

(2) not later than June 25 of each year, a report with the information required by Section 3 of this Act covering the first six months of that calendar year.

SECTION 3. The report shall include the following:

(1) the number of beneficiaries of the state trust fund;

(2) the name of any individual responsible for administering the state trust fund and the discretionary investment authority granted to these individuals;

(3) the investment objectives of the state trust fund;

(4) the current end-of-month market value of the state trust fund;

(5) the current book value of the state trust fund;

(6) the names and amounts of the 10 largest stock holdings of the state trust fund along with the investment performance of these stock holdings during the last 12-month period;

(7) the asset allocations of the state trust fund expressed in percentages of stocks, fixed income, real estate, cash, or other financial investments; and

(8) the names and amounts of all investments made by the state trust fund in economically targeted investments.

SECTION 4. In this Act, "economically targeted investment" means an investment in which at least 50 percent of the total investment is allocated to economic development within this state or investment in businesses or entities located within this state.

The amendment was read.

On motion of Senator Leedom and by unanimous consent, the Senate concurred in the House amendment to S.B. 127 by a viva voce vote.

SENATE BILL 427 WITH HOUSE AMENDMENT

Senator Ellis called S.B. 427 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend S.B. 427, Section 4, in Section 311.045(b) by adding a new Subdivision (3) to read as follows:

"A non-profit hospital that is located in a county with a population under 100,000 which has a hospital district created pursuant to Article 9, Section 5 of the Constitution and Chapter 136, Acts of the 55th Legislature, Regular Session, 1957, shall not be required to comply with one or more of the standards set forth in Subsection (b)."

The amendment was read.

Senator Ellis moved to concur in the House amendment to S.B. 427.

The motion prevailed by the following vote: Yeas 14, Nays 9.

Yeas: Armbrister, Bivins, Carriker, Ellis, Harris of Tarrant, Luna, Moncrief, Nelson, Parker, Rosson, Shapiro, Sims, Wentworth, Zaffirini.

Nays: Barrientos, Brown, Harris of Dallas, Leedom, Lucio, Madla, Patterson, Shelley, Truan.

Absent: Haley, Henderson, Montford, Ratliff, Sibley, West, Whitmire.

Absent-excused: Turner.

SENATE BILL 642 WITH HOUSE AMENDMENT

Senator Ellis called S.B. 642 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend S.B. 642 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to workforce development, investment in human resources, the organization, administration, and operation of state agencies providing these services, and the creation of the Council on Workforce and Economic Competitiveness.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. PURPOSE. The purpose of this Act is to improve the efficiency and effectiveness of state and federal programs for literacy, adult education, vocational education, job training, and employment services through the creation of the Council on Workforce and Economic Competitiveness to advise the governor and the legislature with regard to strategic planning, policy development, and the evaluation of programs in this state to prepare a quality workforce as the key element of the state's economic development strategy.

SECTION 2. SHORT TITLE. This Act may be cited as the Workforce and Economic Competitiveness Act.

SECTION 3. DEFINITIONS. In this Act:

(1) "Council" means the Council on Workforce and Economic Competitiveness.

(2) "Executive director" means the executive director of the Council on Workforce and Economic Competitiveness.

(3) "Human resource investment council" means a human resource investment council under the Job Training Reform Amendment (Pub. L. No. 102-367, Section 701 et seq., 106 Stat. 1099-1113 (1992)) and its subsequent amendments.

SECTION 4. CREATION OF COUNCIL. The Council on Workforce and Economic Competitiveness is created as a state agency to act as a human resources investment council.

SECTION 5. MEMBERSHIP OF COUNCIL. (a) The council shall consist of 30 public members appointed by the governor and 12 ex officio members as provided by Subsection (b) of this section.

(b) The membership of the council includes:

(1) the following ex officio voting members:

(A) the commissioner of education;

(B) the commissioner of higher education;

(C) the commissioner of health and human services;

(D) the executive director of the Texas Department of Commerce; and

(E) the administrator of the Texas Employment Commission;

(2) six voting members appointed by the governor who represent education, at least one of whom represents local public education institutions, one of whom represents postsecondary education institutions, one of whom represents secondary vocational education institutions, and one of whom represents postsecondary vocational education institutions;

(3) not fewer than six or more than 10 voting members who represent organized labor appointed by the governor based on recommendations made by recognized labor organizations;

(4) not fewer than six or more than 10 voting members appointed by the governor who represent business and industry, including individuals who represent business and industry on private industry councils under the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) and its subsequent amendments;

(5) not less than one voting member appointed by the governor who represents a community-based organization;

(6) not less than one voting member appointed by the governor who represents a joint sponsored apprenticeship program as defined by the United States Department of Labor's Bureau of Apprenticeship and Training appointed from a list of three nominees submitted to the governor by the Apprenticeship and Training Association of Texas;

(7) additional voting members appointed by the governor to make a total of 30 public members from any of the following categories:

- (A) literacy groups;
- (B) local welfare or public housing agencies;
- (C) units of local government;
- (D) adult education organizations;
- (E) teachers and counselors;
- (F) local service delivery organizations;
- (G) special needs populations;
- (H) rural and agricultural organizations;
- (I) proprietary schools; and
- (J) other groups and organizations; and

(8) the following ex officio nonvoting members:

- (A) the chair of the State Board of Education;
- (B) the chairman of the Texas Higher Education Coordinating Board;
- (C) the presiding officer of the Texas Board of Human Services;
- (D) the presiding officer of the governing board of the Texas Department of Commerce;
- (E) the chair of the Texas Employment Commission;
- (F) the commissioner of the Texas Rehabilitation Commission; and
- (G) the executive director of the Texas Commission for the Blind.

(c) The governor shall designate a member as the presiding officer of the council, who serves in that capacity at the pleasure of the governor. The presiding officer shall designate a member of the council as assistant presiding officer to preside in the absence of the presiding officer. An ex officio member is not eligible to serve as presiding officer.

SECTION 6. MEETINGS; TERMS. (a) The council shall meet at least quarterly and at other times at the call of the presiding officer or as provided by rules adopted by the council.

(b) Members of the council who do not serve as ex officio members serve six-year terms, with one-third of those members' terms expiring September 1 of each odd-numbered year. An ex officio member shall

continue to serve as a member of the council as long as the member continues to serve in the applicable office.

SECTION 7. DESIGNATED REPLACEMENTS. (a) A member of the council may designate another person to attend a meeting for the member. The designated person may participate in the activities and discussions of the council but may not vote.

(b) An ex officio member of the council may designate another person to attend a meeting for the member only if the person is a member of the board or commission that the ex officio member represents.

SECTION 8. GROUNDS FOR REMOVAL FROM COUNCIL. (a) It is a ground for removal of a member from the council, other than an ex officio member, if the member:

(1) is absent from two consecutive council meetings for which the member received notice not less than 48 hours before the time of the meeting;

(2) is unable to discharge the member's duties for the remainder of the term for which the member was appointed because of illness or other disability;

(3) is absent from more than one-fourth of the regularly scheduled meetings of the council that the member is eligible to attend during each calendar year; or

(4) fails to perform any of the duties established by this Act.

(b) The validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a council member exists.

SECTION 9. COUNCIL FUNCTIONS. (a) The council shall:

(1) promote the development of a well-educated, highly skilled workforce in this state through an integrated workforce development system providing literacy, adult basic education, community education, apprenticeship, and state-of-the-art occupational skills education and training programs;

(2) articulate the relationship and referral mechanism between labor exchange services offered by the Texas Employment Commission and the state's education and training programs;

(3) promote and assist in the development of a business- and industry-driven skills standards and certification system for occupations requiring less than a baccalaureate-level education and training;

(4) recommend a statewide labor market information system to allow access to current information regarding job availability and skills requirements to job applicants, employers, training and education programs, and other entities that need the services and information;

(5) ensure that occupational skills training is provided in occupations that are currently in demand at the local level and is directed toward high-skill and high-wage jobs;

(6) recommend to the governor the designation of workforce development regions for the local planning and delivery of workforce development programs and the development of an incentive system for the consolidation of boards and councils at the local level;

(7) develop and recommend to the governor, in concert with the appropriate economic and human resource development agencies, a strategic plan for the state's workforce development effort;

(8) recommend to the governor the goals, objectives, and performance standards to guide and evaluate the state and federal workforce development programs through student and client outcomes;

(9) review the state's education, workforce development, and human services programs and systems and make recommendations to the governor regarding opportunities for coordination that would improve the quality of services with immediate attention to standardizing intake, eligibility, assessment, case management, and referral for participants in federal workforce development programs;

(10) evaluate the outcomes and make recommendations concerning the operation and outputs of all state and federal workforce development programs; and

(11) carry out the federal and state mandated duties and responsibilities for all advisory councils under applicable federal and state workforce development programs.

(b) The council shall assume the duty to:

(1) participate with appropriate state agencies and recommend to the governor and others state plans required by applicable federal laws in order for the state to receive federal funds;

(2) make policy recommendations to the governor regarding goals and priorities for both formula and discretionary funds for all applicable programs;

(3) participate directly in the development of the master plan for vocational education, as required by law, and recommend the plan to the State Board of Education, the Higher Education Coordinating Board, and the governor;

(4) ensure that general revenue funds available for literacy activity are used to support the efforts of local literacy councils in a manner consistent with the state strategic plan;

(5) recommend to the State Board of Vocational Education the division of federal funds between secondary and postsecondary educational agencies under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. Section 2301 et seq.) and its subsequent amendments;

(6) make recommendations as appropriate to the Texas Employment Commission and its members regarding unemployment insurance issues pertinent to the work of the council;

(7) recommend formulas and procedures to be used in requesting appropriations of state funds for apprenticeship training and the forms, formulas, and procedures to distribute the funds; and

(8) provide to the governor a two-year work plan that shows the projects and areas of review to be conducted by the council and that must be submitted not later than August 31 of each year.

(c) In addition to the council's powers and duties under Subsections (a) and (b) of this section, the council may:

(1) adopt rules necessary and essential to the internal functions and duties of the council but not rules related to the operation of a program;

(2) make expenditures, enter into contracts with public, private, and nonprofit organizations or state agencies, require reports to be made, conduct investigations, and take other actions necessary or suitable to fulfill the council's duties under this Act;

(3) delegate to the executive director any power or duty imposed on the council by law, including the authority to make a final order or decision but not including the authority to adopt rules;

(4) provide for the mediation or arbitration of disputes between agencies that perform functions for federal programs as provided by this Act;

(5) accept gifts, grants, and donations of money, goods, or services to be used only to accomplish the council's duties under this Act; and

(6) enter into agreements with other state agencies to implement this Act, including agreements to share employees with another state agency.

SECTION 10. SUBCOMMITTEES; TECHNICAL ADVISORY COMMITTEES. (a) The presiding officer of the council may appoint subcommittees consisting of members of the council for any purpose consistent with the duties and responsibilities of the council under this Act.

(b) The presiding officer of the council may appoint technical advisory committees composed of council members or persons who are not council members, or both members and nonmembers.

SECTION 11. TRANSFER OF STATE ADVISORY COUNCIL RESPONSIBILITIES. (a) The council shall assume the responsibilities assigned to the state advisory council under the following federal laws:

(1) the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.) and its subsequent amendments;

(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. Section 2301 et seq.) and its subsequent amendments;

(3) the National and Community Service Act of 1990 (42 U.S.C. Section 12501 et seq.) and its subsequent amendments;

(4) the Adult Education Act (20 U.S.C. Section 1201 et seq.) and its subsequent amendments;

(5) the Wagner-Peyser Act (29 U.S.C. Section 49 et seq.) and its subsequent amendments;

(6) Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 681 et seq.), and its subsequent amendments;

(7) the employment program established under Section 6(d)(4), Food Stamp Act of 1977 (7 U.S.C. Section 2015(d)(4)), and its subsequent amendments; and

(8) the National Literacy Act and its subsequent amendments.

(b) The council shall assume the responsibilities formerly exercised by the following state advisory councils:

(1) the State Job Training Coordinating Council;

(2) the Texas Council on Vocational Education;

(3) the technical advisory committee to the State Occupational Information Coordinating Council;

(4) the Texas Literacy Council; and

(5) the Apprenticeship and Training Advisory Committee.

SECTION 12. FISCAL AGENT. The council may designate another state agency to serve as the council's fiscal agent if the designated agent agrees to the designation.

SECTION 13. EXECUTIVE DIRECTOR; COUNCIL STAFF. (a) The governor, with the advice and consent of the senate, shall appoint an executive director for the council. The executive director shall serve a two-year term.

(b) The executive director shall:

(1) perform duties assigned by the council and under state law;

(2) administer the day-to-day operations of the council;

(3) appoint officers, accountants, attorneys, experts, and other employees for the council and assign duties for those employees as necessary in the performance of the council's powers and duties under this Act;

(4) delegate authority to persons appointed under this section as the executive director considers to be reasonable and proper for the effective administration of the council; and

(5) perform other duties assigned by this Act.

(c) The executive director may adopt the administrative and personnel procedures of the council's fiscal agent rather than adopt new procedures for the council.

(d) The council shall have an independent staff with sufficient expertise to perform all duties and responsibilities assigned to the council under this Act and under state and federal law.

(e) The executive director of the State Occupational Information Coordinating Council shall report to the executive director of the council and shall provide labor market information, information relevant to workforce program evaluation, and staff technical assistance to the council and its staff as necessary. The executive director of the State Occupational Information Coordinating Council may enter into contracts for products and services with State Occupational Information Coordinating Council membership agencies and other organizations if consistent with the state strategic plan.

SECTION 14. PERSONNEL POLICIES. (a) The executive director of the council shall develop an intra-agency career ladder program. The program shall require the intra-agency posting of all nonentry-level positions concurrently with any public posting.

(b) The executive director shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for council employees must be based on the system established under this subsection.

SECTION 15. STANDARDS OF CONDUCT INFORMATION. The executive director shall provide to the council's members and employees, as often as necessary, information regarding their qualifications for office or employment under this Act and their responsibilities under applicable laws relating to standards of conduct for state officers and employees.

SECTION 16. EQUAL EMPLOYMENT OPPORTUNITY POLICIES.

(a) The executive director shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, application, training, and promotion of personnel that are in compliance with the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes) and its subsequent amendments;

(2) a comprehensive analysis of the council's workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the council's workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement under Subsection (a) of this section must cover an annual period, be updated annually, be reviewed by the Commission on Human Rights for compliance with Subsection (a)(1) of this section, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b) of this section. The report may be made separately or as part of other biennial reports to the legislature.

SECTION 17. COUNCIL RECOMMENDATIONS; COOPERATION WITH STATE AGENCIES. (a) The council shall develop recommendations periodically in each of the council's areas of responsibility and shall submit the recommendations to the governor.

(b) The governor shall consider the recommendations submitted under this section. The governor shall approve, disapprove, or modify the recommendations and return the recommendations to the council to be forwarded as appropriate. A recommendation that is approved or modified that requires a change in state or federal law shall be forwarded to the appropriate legislative body for consideration.

(c) A recommendation that is not returned to the council by the governor before the 60th day after the date the recommendation is submitted shall be considered to be approved by the governor. On receipt of a recommendation by the governor, the council shall forward the recommendation to the appropriate state agency for action.

(d) State agencies that are responsible for the administration of human resources and workforce development programs in this state shall cooperate with the council to implement the recommendations to the extent possible.

(e) A state agency and other appropriate advisory groups designated by the council shall:

(1) provide requested information to the council in a timely manner;

(2) report on the implementation of the council's recommendations at the time and in the format requested by the council; and

(3) notify the governor, the executive director, and the presiding officer of the council if the agency determines that a recommendation cannot be implemented.

(f) A recommendation approved by the governor with regard to the state or federal Job Training Partnership Act shall be implemented by the agency responsible for the administration of that Act as required by federal law.

SECTION 18. STRATEGIC PLAN. (a) In addition to the other requirements of this Act, the strategic plan recommended by the council shall recognize and address literacy and basic education as activities that are critical to the well-being of individuals and the state without regard to whether the training and education is directed at preparing an individual for employment.

(b) On approval of the plan by the governor, an agency represented on the council shall use the strategic plan to develop the agency's strategic and operational plan.

SECTION 19. FUNDING. (a) Federal funding for the operation of the council shall be allocated according to federal requirements.

(b) A state agency represented on the council shall provide funds for the support of the council in proportion to the agency's financial participation in the workforce development system. The legislature shall appropriate funds to the council on the basis of this subsection.

SECTION 20. APPLICATION OF SUNSET ACT. The Council on Workforce and Economic Competitiveness is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished on September 1, 2001.

SECTION 21. CONFORMING AMENDMENT. Section 31.03(1), Education Code, is amended to read as follows:

(1) "Council" means the ~~[Texas]~~ Council on Workforce and Economic Competitiveness ~~[Vocational Education]~~.

SECTION 22. CONFORMING AMENDMENT. Section 33.01(5), Education Code, is amended to read as follows:

(5) "Advisory committee" means the Council on Workforce and Economic Competitiveness ~~[Apprenticeship and Training Advisory Committee to the State Board of Vocational Education]~~.

SECTION 23. CONFORMING AMENDMENT. Section 5, Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. ADMINISTRATION. (a) ~~[A job-training and employment staff is established within the governor's office. The staff shall:~~

~~[(1) have responsibility for policy development, program planning, monitoring, and evaluation of these programs in coordination with existing state agencies as provided under the Job Training Partnership Act;~~

~~[(2) provide staff support as directed by the governor for the State Job Training Coordinating Council; and~~

~~[(3) perform such other functions and duties relating to the job-training, employment, and related programs as may be required by law or assigned by the governor.~~

~~[(b)]~~ The Texas Department of Commerce shall:

(1) have primary responsibility for implementation and management of the job-training program; and

(2) perform such other functions and duties relating to the job-training program as may be required by law or assigned by the governor.

(b) The Texas Department of Commerce shall assist and coordinate with the Council on Workforce and Economic Competitiveness in performing the department's functions under this Act.

SECTION 24. CONFORMING AMENDMENT. Section 6A, Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6A. AUDIT INFORMATION. (a) In order to obtain information necessary to monitor the progress of the implementation of this Act, the Council on Workforce and Economic Competitiveness and the joint committee created under Section 6 of this Act ~~are [is]~~ entitled to receive the results of audits that relate to state and local job-training plans as provided by this section. The committee may prescribe the form in which the information is reported to the committee.

(b) The State Auditor shall submit to the Council on Workforce and Economic Competitiveness and the committee any results of a financial audit, effectiveness audit, or compliance audit conducted by the State Auditor under Section 321.013, Government Code, that relate to the operation of an employment, job-training, or related program administered by a state agency.

(c) The Private Industry Council and appropriate chief elected official of each service delivery area shall submit to the State Auditor the results of any audit conducted under Section 9 of this Act that relates to the operation of the service delivery area's program of job-training, employment, or related services. The information shall be submitted in the manner directed by the State Auditor. Based on the information received from each service delivery area, the State Auditor shall compile a summary of audit results and shall submit the summary in writing to the Council on Workforce and Economic Competitiveness ~~[joint committee]~~.

SECTION 25. CONFORMING AMENDMENT. Section 8, Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. STATE RESPONSIBILITIES. (a) The legislature ~~may [reserves the right to]~~ review and comment on the job-training plan submitted from each service delivery area and on the governor's coordination and special services plan. The governor's plans shall be submitted to the lieutenant governor and the speaker of the house not later than February 1 of each odd-numbered year, who shall refer the plans to the appropriate senate and house committees for review and comment.

(b) ~~[The state hereby establishes a State Job Training Coordinating Council as required by the federal Act, hereinafter referred to as the "state council". The state council shall:~~

~~[(1) be appointed by the governor in accordance with the requirements of the federal Act;~~

- ~~[(2) have not more than 40 members including the chairperson;~~
 - ~~[(3) meet not less than quarterly;~~
 - ~~[(4) develop and recommend statewide goals and program objectives;~~
 - ~~[(5) identify needs for training and employment services;~~
 - ~~[(6) review operations of local programs and state agencies providing job-training, employment, and related programs identified in the federal Act;~~
 - ~~[(7) establish criteria for coordinating program planning and operations;~~
 - ~~[(8) evaluate the results of state and local training and employment services;~~
 - ~~[(9) develop and recommend the state's coordination and special services plan to the governor;~~
 - ~~[(10) perform the functions formerly conducted by the State Coordinating Committee for the work incentive program under Title IV of the Social Security Act, the advisory council established under the Wagner-Peyser Act (29 U.S.C. 49) and under the Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes);~~
 - ~~[(11) assist each Private Industry Council in developing programs to serve AFDC recipients;~~
 - ~~[(12) develop conflict-of-interest guidelines relating to the participation of a member of a Private Industry Council in a contract with the service delivery area administered by that Private Industry Council; and~~
 - ~~[(13) perform such functions and duties relating to job-training, employment, and related programs as required by the federal Act or as assigned by the governor.~~
- ~~[(c)]~~ The governor or the governor's ~~[his]~~ delegated agency shall:
- ~~(1) [prepare a statement of goals and objectives for job-training and placement programs within the state;~~
 - ~~[(2)]~~ be responsible for operational ~~[the]~~ planning, monitoring, implementing, and evaluating of job-training, employment, and related programs as provided for by the federal Act;
 - ~~(2) [(3)] shall~~ monitor or cause to be monitored not less than annually each grant recipient and contractor to assure compliance;
 - ~~(3) [(4)]~~ prescribe, within parameters established by the secretary, variations in the performance standards for programs under the federal Act. Such variations shall recognize the economic, geographic, and demographic differences in various regions of the state;
 - ~~(4) [(5)] provide specifications for the design, development, and operation of a statewide uniform labor market information system to facilitate the timely availability of employment and training information throughout the state;~~
 - ~~[(6)]~~ develop and provide to service delivery areas information on a state and local area basis regarding economic, industrial, and labor market conditions;
 - ~~(5) [(7)]~~ plan, provide for the operation of, and evaluate special model or demonstration programs (including programs receiving financial assistance from private sources);

(6) [(8)] make available to service delivery areas, with or without reimbursement and upon request, appropriate information and technical assistance to assist in developing and implementing plans and programs;

(7) [(9)] establish and maintain a computerized statewide management information system to collect and maintain the financial, participant, and program data necessary to ensure program accountability on a monthly basis;

(8) [(10)] develop and formally issue procedures to ensure consistency of definitions, formats, recordkeeping, data gathering, and reporting. These procedures shall concern, but not be limited to:

- (A) planning and contracting;
- (B) labor market information;
- (C) financial management;
- (D) participant tracking;
- (E) monitoring;
- (F) evaluation;
- (G) audit;
- (H) complaints and grievance procedures;
- (I) personnel standards, including equal opportunity

compliance;

- (J) property management;

(9) [(11)] at least once every two years, the governor shall provide for an independent audit of each recipient of funds authorized under the federal Act;

(10) [(12)] the governor shall approve or disapprove the final local job-training plans and modifications according to the criteria established in the federal Act;

(11) [(13)] submit a coordination and special services plan to the secretary of labor in accordance with the requirements of the federal Act; and

(12) [(14)] provide preservice and in-service training to improve professional capability of managers and technical staff of state agencies, local administrative entities, private industry councils, and contractors involved in planning and operating programs.

~~[(d) All state agencies providing employment, job-training, and related programs shall provide to the state council information for planning, reviewing program operations, and evaluating program results as required by the governor. In addition, these agencies shall also submit their plans to the state council.]~~

SECTION 26. REPEALER. The following laws are repealed:

- (1) Section 481.025, Government Code;
- (2) Sections 31.12-31.25, Education Code; and
- (3) Section 33.05, Education Code.

SECTION 27. EFFECTIVE DATE; TRANSITION. (a) This Act takes effect September 1, 1993.

(b) A transition oversight committee is created September 1, 1993. The committee is composed of the following members:

- (1) the administrator of the Texas Employment Commission;
- (2) the chair of the State Job Training Coordinating Council;

- (3) the executive director of the Texas Department of Commerce;
- (4) the commissioner of education;
- (5) the commissioner of higher education;
- (6) the commissioner of Health and Human Services;
- (7) the chair of the Texas Literacy Council;
- (8) the chair of the Apprenticeship and Training Advisory Committee;
- (9) the chair of the Texas Council on Vocational Education;
- (10) the chair of the technical advisory committee to the State Occupational Information Coordinating Council; and
- (11) the chair of the governor's task force on education and economic competitiveness.

(c) All agencies, councils, and commissions affected by this Act are directed to cooperate with the committee in formulating and implementing a transition plan and program.

(d) The committee shall develop and oversee the implementation of a plan that will carry out the full effect of this Act in an orderly fashion.

(e) The Council on Workforce and Economic Competitiveness shall be appointed and operational not later than January 1, 1994.

(f) The materials, furniture, and other assets, and the unexpended and unobligated appropriations and other funds, of the councils and committees abolished under this Act shall be transferred to the Council on Workforce and Economic Competitiveness not later than January 1, 1994.

SECTION 28. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Ellis moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on S.B. 642 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ellis, Chair; Lucio, Parker, Rosson, and Leedom.

SENATE BILL 1132 WITH HOUSE AMENDMENT

Senator Armbrister called S.B. 1132 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend S.B. 1132, Section 12.206. PAYMENT OF DEATH BENEFITS, as follows:

On page 2 line 17, delete "A death benefit payment under this section shall be equal to at least 20 percent of the current balance of the fund, except that the payment may not be less than \$10,000 or more than \$20,000."

The amendment was read.

Senator Armbrister moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on S.B. 1132 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Sims, Brown, Shelley, and Montford.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Barrientos submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

To be Members of the LAVACA-NAVIDAD RIVER AUTHORITY BOARD OF DIRECTORS: Carol T. McDonald, Jackson County; Callaway S. Vance, Jackson County; Robert J. Whitworth, Jackson County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Barrientos gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

SENATE BILL 142 WITH HOUSE AMENDMENT

Senator Madla called S.B. 142 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend S.B. 142 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to authorizing public junior colleges to establish an endowment fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 130, Education Code, is amended by adding Section 130.007 to read as follows:

Sec. 130.007. ENDOWMENT FUND. (a) The board of trustees of a public junior college may establish an endowment fund outside the state treasury in a depository selected by the board of trustees.

(b) The board of trustees may deposit local funds collected by the board to the credit of the endowment fund.

(c) The board of trustees may accept gifts and grants from any public or private source for the endowment fund.

(d) The endowment fund consists of local funds deposited to the credit of the endowment fund, gifts, grants, and income from investing the endowment fund.

(e) The board of trustees may invest the endowment fund in securities, bonds, and other investments that the board considers prudent. In making investments under this section, the board shall exercise the judgment and care under the circumstances then prevailing that a person of ordinary prudence, discretion, and intelligence exercises in the management of the person's own affairs.

(f) The board may not spend any money deposited in the endowment fund as local funds, gifts, or grants but may spend any income from investing the endowment fund for the operation or maintenance of the junior college.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Madla moved to concur in the House amendment to S.B. 142.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

(President in Chair)

SENATE BILL 55 WITH HOUSE AMENDMENT

Senator Sibley called S.B. 55 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Amendment

Amend S.B. 55 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to providing an alcoholic beverage to a minor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Alcoholic Beverage Code is amended by adding a new Section 1.08 immediately after Section 1.07 to read as follows:

Sec. 1.08. CRIMINAL NEGLIGENCE DEFINED. For purposes of this code, a person acts with criminal negligence if the person acts with a mental state that would constitute criminal negligence under Chapter 6, Penal Code, if the act were an offense.

SECTION 2. Section 61.71(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) made a false statement or a misrepresentation in his original application or a renewal application;

(5) with criminal negligence [knowingly] sold, served, or delivered beer to a minor;

(6) sold, served, or delivered beer to an intoxicated person;

(7) sold, served, or delivered beer at a time when its sale is prohibited;

(8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic beverages on consignment;

(9) possessed on the licensed premises, or on adjacent premises directly or indirectly under his control, an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section 22.06, 24.05, or 102.05 of this code;

(10) does not have at his licensed premises running water, if it is available, and separate toilets for both sexes which are properly identified;

(11) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;

(12) employed a person under 18 years of age to sell, handle, or dispense beer, or to assist in doing so, in an establishment where beer is sold for on-premises consumption;

(13) conspired with a person to violate Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 of this code, or a rule promulgated under Section 5.40 of this code, or accepted a benefit from an act prohibited by any of these sections or rules;

(14) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;

(15) permitted the use or display of his license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;

(16) maintained blinds or barriers at his place of business in violation of this code;

(17) conducted his business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(18) consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code;

(19) purchased beer for the purpose of resale from a person other than the holder of a manufacturer's or distributor's license;

(20) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;

(21) owned an interest of any kind in the business or premises of the holder of a distributor's license;

(22) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or permitted one to be consumed on the licensed premises while his license was under suspension;

(23) purchased, possessed, stored, sold, or offered for sale beer in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;

(24) habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment;

(25) imported beer into this state except as authorized by Section 107.07 of this code;

(26) occupied premises in which the holder of a manufacturer's or distributor's license had an interest of any kind;

(27) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

(28) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by his license, except as permitted by Section 22.06, 24.05, or 102.05 of this code;

(29) is residentially domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section 22.06, 24.05, or 102.05 of this code, so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) is residentially domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code.

SECTION 3. Section 61.74(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal general, local, or branch distributor's license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) violated Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 of this code, or a rule or regulation promulgated under Section 5.40 of this code;

(5) failed to comply with a requirement of the commission relating to the keeping of records or making of reports;

(6) failed to pay any tax due the state on any beer he sold, stored, or transported;

(7) refused to permit or interfered with an inspection of his licensed premises, vehicles, books, or records by an authorized representative of the commission;

(8) consummated a sale of beer outside the county or counties in which he was authorized to sell beer by his license;

(9) purchased, sold, offered for sale, distributed, or delivered beer while his license was under suspension;

(10) permitted the use of his license in the operation of a business conducted for the benefit of a person not authorized by law to have an interest in the business;

(11) made a false or misleading representation or statement in his original application or a renewal application;

(12) habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment;

(13) misrepresented any beer sold by him to a retailer or to the public;

(14) with criminal negligence [~~knowingly~~] sold or delivered beer to a minor; or

(15) purchased, possessed, stored, sold, or offered for sale beer in an original package bearing a brand or trade name of a manufacturer other than the brand or trade name of the manufacturer shown on the container.

SECTION 4. Section 106.06(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided in Subsection (b) of this section, a person commits an offense if he purchases an alcoholic beverage for or gives or [~~knowingly~~] makes available an alcoholic beverage to a minor with criminal negligence.

SECTION 5. Section 106.13(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided in Subsections (b) and (c) of this section, the commission or administrator may cancel or suspend for not more than 60 days a retail license or permit or a private club registration permit if it is found, on notice and hearing, that the licensee or permittee with criminal negligence [knowingly] sold, served, dispensed, or delivered an alcoholic beverage to a minor in violation of this code or with criminal negligence [knowingly] permitted a minor to violate Section 106.04 or 106.05 of this code on the licensed premises.

SECTION 6. (a) This Act takes effect September 1, 1993.

(b) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(c) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Sibley and by unanimous consent, the Senate concurred in the House amendment to S.B. 55 by a viva voce vote.

SENATE BILL 218 WITH HOUSE AMENDMENT

Senator Sibley called S.B. 218 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend S.B. 218 as follows:

(1) On page 2, line 8, between "assistance" and the period, insert "by taking into account the degree of physician shortage, geographic locations, and other criteria the committee considers appropriate".

(2) On page 2, between lines 8 and 9, insert a new SECTION 3 to read as follows:

SECTION 3. Subchapter J, Chapter 61, Education Code, is amended by adding Section 61.538 to read as follows:

Sec. 61.538. TOTAL AMOUNT OF REPAYMENT ASSISTANCE. The total amount of repayment assistance distributed by the board may not exceed the total amount of gifts and grants accepted by the board for repayment assistance, medical school tuition set aside under Section 61.539 of this code, and legislative appropriations for repayment assistance.

(3) Renumber existing SECTION 3 as SECTION 4.

The amendment was read.

Senator Sibley moved to concur in the House amendment to S.B. 218.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2711 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2711, Relating to the administration of, benefits payable by, eligibility for benefits payable by, and credit under programs administered by, the Teacher Retirement System of Texas; prohibiting certain interests in contracts; and providing for the sunset review of the system.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Amend C.S.H.B. 2711 as follows:

(1) In Section 21 of the bill, added Section 825.3021(1), Government Code, strike "is certified as MAI or SRA" (Committee Printing, page 7, line 57) and substitute "has received MAI or SRA certification".

(2) At the end of Section 29 of the bill, amended Section 825.507, Government Code (Committee Printing, page 9, between lines 62 and 63), add the following:

(e) The retirement system may make not more than two mailings a year on behalf of a nonprofit association of active or retired school employees, for purposes of association membership and research only, to persons identified in information contained in records that are in the custody of the retirement system. The nonprofit association requesting a mailing shall pay the expenses of the mailing.

(3) In Section 31 of the bill, added Section 825.510, Government Code, at the end of Subsection (a) (Committee Printing, page 10, line 61), add the following:

The report required by this subsection is the only periodic report of investments required to be made by the retirement system other than a report required by Section 802.106 or a report required by the state auditor.

(4) In Section 32 of the bill, amended Section 13.913(a), Education Code, strike the sixth sentence, "The cost of the coverage [and] must be comparable to the basic health coverage provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code)." (Committee Printing, page 11, lines 23-26), and substitute the following:

The cost to an employee of coverage for only the employee may not exceed 10 percent of the total cost of the premium for that coverage [and must be comparable to the basic health coverage provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code)].

(5) At the end of Section 32, amended Section 13.913(a), Education Code (Committee Printing, page 11, line 31), add the following:

The certification must include a copy of the district's current contract for group health coverage. If the retirement system determines, after a hearing, that a district is not providing insurance as required by this subsection, the district shall participate in the program provided by Article 3.50-7, Insurance Code, beginning with the later of the next school year or the first school year that begins after the date the district's current contract expires.

(6) In Section 36 of the bill, added Section 3, Article 3.50-7, Insurance Code, add Subsection (f) (Committee Printing, page 13, between lines 45 and 46) to read as follows:

(f) The trustee has, with respect to the program provided under this article, the same powers and duties as are provided by Section 18C, Article 3.50-4, Insurance Code, for the program provided by that article.

(7) In Section 36 of the bill, added Section 4, Article 3.50-7, Insurance Code, strike Subsection (a) (Committee Printing, page 13, lines 46-51) and substitute the following:

(a) A public school district determined to be in noncompliance with Section 13.913(a), Education Code, shall participate in the program provided under this article. A public school district having fewer than 1,500 students enrolled as of October 1 of the preceding school year shall participate in the program provided by this article unless the district contracts for and pays the cost of employee-only coverage for a health benefits plan with a company or nonprofit association that provides similar services for 10 or more public school districts.

(8) Strike Section 44(a) of the bill (Committee Printing, page 16, lines 3-11) and substitute the following:

(a) All employees of the Central Education Agency, the Texas Higher Education Coordinating Board, and the Teacher Retirement System of Texas, and employees of the Texas Youth Commission, the Texas Department of Criminal Justice, the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and any other state agency the majority of employees of which are members of the Employees Retirement System of Texas are subject to an election made under this section, if the employees are contributing members of the Teacher Retirement System of Texas on the day before the effective date of the transfer made under the election and remain employees of the same agency on the effective date of the transfer.

(b) An election may be made under this section to transfer membership of all affected employees from the Teacher Retirement System of Texas to the Employees Retirement System of Texas if the transfer would be in the best interests of the agency and the employees. The commissioner of education, after consultation with the State Board of Education, may make the election for employees of the Central Education Agency. The commissioner of higher education, after consultation with the Texas Higher Education Coordinating Board, may make the election for employees of that board. The governing boards of the other agencies described by Subsection (a) of this section may make the election for affected employees of those agencies.

(c) Notice of an election made under this section must be filed with the Employees Retirement System of Texas not later than the 60th day preceding the effective date of the transfer of membership. The effective date of a transfer of membership is September 1, 1994, except that for employees of the Central Education Agency, the effective date is January 1, 1994.

(d) If a person retires under the Teacher Retirement System of Texas on the day before the effective date of a transfer of membership under this section, the person does not become a member of the Employees Retirement System of Texas under this section.

(9) In Section 44 of the bill, at the beginning of existing Subsection (b) (Committee Printing, page 16, line 12), strike "(b)" and substitute "(e)".

(10) In Section 44 of the bill, strike existing Subsection (c) (Committee Printing, page 16, lines 25-31).

(11) In Section 45 of the bill, strike the first sentence (Committee Printing, page 16, lines 32-39) and substitute the following:

If legislation is enacted by the 73rd Legislature, Regular Session, 1993, that becomes law and that transfers employees of the Texas Rehabilitation Commission from the Teacher Retirement System of Texas to the Employees Retirement System of Texas, those persons do not become members of the Employees Retirement System of Texas under that legislation if they retire under the Teacher Retirement System of Texas on August 31, 1993.

(12) In Section 46(b) of the bill (Committee Printing, page 16, line 51), strike "Article 3.50-4" and substitute "Article 3.50-7".

(13) In Section 46(b)(2) of the bill (Committee Printing, page 16, line 55), between "employee" and the semicolon, insert "or retiree".

(14) In Section 46 of the bill, at the end of Subsection (d) (Committee Printing, page 17, line 2), add the following:

The retirement system also may spend for these purposes amounts from the retired school employees group insurance fund that are designated for administrative expenses.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2711 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 2711 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Truan in Chair)

HOUSE BILL 1425 ON SECOND READING

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1425, Relating to the establishment of a brewpub license.

The bill was read second time.

Senator Rosson offered the following amendment to the bill:

Amend **H.B. 1425** by striking Section 1 of the bill and substituting the following:

SECTION 1. Subtitle B, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 74 to read as follows:

CHAPTER 74. BREWPUB LICENSE

Sec. 74.01. AUTHORIZED ACTIVITIES. (a) A holder of a brewpub license for a brewpub located in a wet area, as that term is described by Section 251.71 of this code, may:

(1) manufacture, brew, bottle, can, package, and label malt liquor, ale, and beer;

(2) sell or offer without charge, on the premises of the brewpub, to ultimate consumers for consumption on or off those premises, malt liquor, ale, or beer produced by the holder, in or from a lawful container, to the extent the sales or offers are allowed under the holder's other permits or licenses; and

(3) sell food on the premises of the holder's breweries.

(b) The holder of a brewpub license may establish, operate, or maintain one or more licensed brewpubs in this state under the same general management or ownership. The holder shall pay the fee assessed by the commission for each establishment. For the purposes of this subsection, two or more establishments are under the same general management or ownership if:

(1) the establishments bottle the same brand of malt liquor, beer, or ale or bottle malt liquor, beer, or ale brewed by the same manufacturer; or

(2) the person, regardless of domicile, who establishes, operates, or maintains the establishments is controlled or directed by one management or by an association of ultimate management.

(c) A holder of a brewpub license must also hold a wine and beer retailer's permit, a mixed beverage permit, or a retail dealer's on-premise license.

(d) The holder of a brewpub license may not hold or have an interest either directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or other person, in a manufacturer's or distributor's license or any other license or permit in the manufacturing or wholesaling levels of the alcoholic beverage industry regardless of the specific names given to permits or licenses in Title 3 of this code. The

holder shall be considered a "retailer" for purposes of Section 102.01 of this code.

(e) A holder of a retail dealer's on-premise license who obtains a brewpub license may not manufacture, brew, bottle, can, package, label, sell, or offer without charge malt liquor or ale.

(f) A holder of a brewpub license may not sell an alcoholic beverage for resale.

Sec. 74.02. FEE. The annual state fee for a brewpub license is \$500.

Sec. 74.03. PRODUCTION LIMIT. The total annual production of malt liquor, ale, and beer by a holder of a brewpub license may not exceed 5,000 barrels for each licensed brewpub established, operated, or maintained by the holder in this state.

Sec. 74.04. LICENSE APPLICATION, RENEWAL, AND MAINTENANCE; RECORDS; LICENSE ISSUANCE. All provisions of this code that apply to a brewpub licensee's wine and beer retailer's permit, mixed beverage permit, or retail dealer's on-premise license also apply to the brewpub license.

Sec. 74.05. STATEMENT OF INTENT. An applicant for a brewpub license shall file with the application a sworn statement that the applicant shall be engaged in the business of brewing and packaging malt liquor, ale, or beer in this state in quantities sufficient to operate a brewpub not later than six months after the date of issuance of the original license. If the applicant is a corporation, the statement must be signed by a principal corporate officer. A county judge may not issue a brewpub license to an applicant who does not submit the required sworn statement with the application for a license.

Sec. 74.06. QUALITY STANDARDS. Manufacturing or brewing equipment used by a holder of a brewpub license, and process, labeling, and packaging conducted by a holder of a brewpub license, shall conform to standards and tax requirements imposed by this code and the commission's rules for the manufacture of beer and the brewing of ale and malt liquor and shall conform to any standards that may be applied by the agency of the United States charged with supervising and inspecting the manufacture and brewing of alcoholic beverages.

Sec. 74.07. CONTAINER SIZE. In addition to any other container for beer, ale, or malt liquor authorized elsewhere in this code, a holder of a brewpub license may store or serve to consumers beer, ale, or malt liquor manufactured by the holder of the license at the premises of the brewpub license from any container having the capacity of one barrel or whole multiples of one barrel.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as "Present-not voting" on the adoption of the amendment.

On motion of Senator Rosson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

HOUSE BILL 1425 ON THIRD READING

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1425** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Barrientos.

Absent-excused: Turner.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1. (Same as previous roll call)

COMMITTEE SUBSTITUTE

HOUSE BILL 2468 ON SECOND READING

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2468, Relating to certain procedures regarding election contests and recounts.

The bill was read second time and was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE

HOUSE BILL 2468 ON THIRD READING

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2468** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

SENATE JOINT RESOLUTION 49 WITH HOUSE AMENDMENTS

Senator Montford called **S.J.R. 49** from the President's table for consideration of the House amendments to the resolution.

The President laid the resolution and the House amendments before the Senate.

Amendment

Amend **S.J.R. 49** by substituting in lieu thereof the following:

SENATE JOINT RESOLUTION

proposing a constitutional amendment prohibiting a personal income tax without voter approval.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article VIII, Section 1(c), of the Texas Constitution is amended to read as follows:

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. Subject to the restrictions of Section 24 of this article, it [It] may also tax incomes of both natural persons and corporations other than municipal, Persons[; except that persons] engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

SECTION 2. Article VIII of the Texas Constitution is amended by adding Section 24 to read as follows:

Sec. 24. (a) A general law enacted by the legislature that imposes a tax on the net incomes of natural persons, including a person's share of partnership and unincorporated association income, must provide that the portion of the law imposing the tax not take effect until approved by a majority of the registered voters voting in a statewide referendum held on the question of imposing the tax. The referendum must specify the rate of the tax that will apply to taxable income; and the personal exemption and standard deductions as defined by law.

(b) A general law enacted by the legislature that either increases the rate of the tax, reduces the personal exemption, or reduces or eliminates a tax deduction or tax credit may not take effect until approved by a majority of the registered voters voting in a statewide referendum held on the question of increasing the tax rate, reducing the personal exemption, or reducing or eliminating a tax deduction or tax credit. The referendum must specify the increased tax rate, reduced personal exemption, or eliminated or reduced tax deduction or tax credit.

(c) Except as provided by Subsection (b) of this section, the legislature may amend or repeal a tax approved by the voters under this section without submitting the amendment or the repeal to the voters as provided by Subsection (a) of this section.

(d) If the legislature repeals a tax approved by the voters under this section, the legislature may reenact the tax without submitting the reenactment to the voters as provided by Subsection (a) of this section only if the effective date of the reenactment of the tax is before the first anniversary of the effective date of the repeal.

(e) The legislature may provide for the taxation of income in a manner which is consistent with federal law.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment prohibiting a personal income tax without voter approval."

Amendment No. 1

Amend C.S.S.J.R. 49 as follows:

(1) In Section 2 of the resolution, in added Section 24, Article VIII (committee printing page 2, between lines 19 and 20), insert a new Subsection (e) to read as follows:

(e) In the first year in which a tax described by Subsection (a) is imposed and during the first year of any rate increase of the tax, not less than one-half of all net revenues remaining after payment of all refunds allowed by law and expenses of collection from the tax shall be used to reduce the rate of ad valorem taxes levied for the support of primary and secondary education. In subsequent years, not less than one-half of all net revenues shall be used to continue property tax relief. The remaining net revenues may be used for any other public purpose. The legislature by general law may prescribe the manner in which ad valorem tax rates are to be reduced, provided that the general law must limit the authority of a political subdivision receiving revenue derived from the tax to levy ad valorem taxes.

(2) In Section 2 of the resolution, in added Section 24, Article VIII (committee printing page 2, line 20), strike “(e)” and substitute “(f)”.

Amendment No. 2

Amend Amendment No. ____ to C.S.S.J.R. 49, after the last sentence of new Subsection (e), Section 24 (page 1, line 12), by inserting the following:

“Notwithstanding any other provision of this section, the maximum rate at which a school district may impose ad valorem taxes is reduced by an amount equal to one cent per \$100 valuation for each one cent per \$100 valuation that the school district’s ad valorem tax is reduced by the use of money from the tax described by Subsection (a).”

Amendment No. 3

Amend C.S.S.J.R. 49 as follows:

(1) In Section 2 of the resolution, in added Section 24, Article VIII (Committee printing, page 1, lines 23 and 24), strike the last sentence of Subsection (a) and substitute “The referendum must specify the rate of the tax that will apply to taxable income as defined by law.”.

(2) In Section 2 of the resolution, in added Section 24, Article VIII (Committee printing, page 2, lines 1-9), strike added Subsection (b) and substitute the following:

(b) A general law enacted by the legislature that increases the rate of the tax or changes the tax in a manner that results in an increase in the combined tax liability of all persons subject to the tax may not take effect until approved by a majority of the registered voters voting in a statewide referendum held on the question of increasing the income tax. A determination of whether a bill proposing a change in the tax would increase the combined tax liability of all persons subject to the tax must be made by comparing the provisions of the proposed change in law with the provisions of the law for the most recent year in which actual tax collections have been made. A referendum held under this subsection must

specify the manner in which the proposed law would increase the combined tax liability of all persons subject to the tax.

Amendment No. 4

Amend C.S.S.J.R. 49 by striking Section 3 of the resolution and substituting the following:

SECTION 3. Article VII of the Texas Constitution is amended by adding Section 3a to read as follows:

Sec. 3a. (a) A school district may not levy ad valorem property taxes at an aggregate rate that exceeds the greater of 50 cents on the \$100 valuation or the maximum tax rate approved by the voters as provided by Subsection (b) of this section.

(b) A majority of the registered voters of a school district voting at an election called and held for the purpose of establishing a maximum school district ad valorem tax rate in excess of 50 cents on the \$100 valuation may approve a maximum tax rate that may be levied under Subsection (a) of this section. An ad valorem tax rate election held by a school district before the date that Subsection (a) becomes applicable to ad valorem taxes under Subsection (d) of this section, other than an election for the authorization of school district bonds, does not qualify for approving a maximum tax rate for the purposes of Subsection (a) of this section.

(c) The portion of the total tax rate required to collect the taxes pledged and levied for the payment of principal and interest on debt authorized to be issued by an election held on or before the date on which this section takes effect and issued before the first anniversary of the date on which this section takes effect is not subject to the tax limitation or rate increase requirements prescribed by Subsections (a) and (b) of this section.

(d) Subsections (a)-(c) of this section apply to ad valorem property taxes levied by a school district on or after the first January 1 after the date on which a tax on the net incomes of natural persons, including a person's share of partnership and unincorporated association income, begins to apply to that income, except that if the income tax begins to apply on a January 1, Subsections (a)-(c) of this section apply to ad valorem taxes levied on or after that date.

(e) A provision of this section prevails over a conflicting provision of Section 3 or 3-b of this article or Article VIII, Section 24, of this constitution to the extent of the conflict.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment prohibiting a personal income tax without voter approval, and if an income tax is enacted, limiting the rate of local school taxes."

The amendments were read.

Senator Montford moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the resolution.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.J.R. 49 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the resolution: Senators Montford, Chair; Armbrister, Haley, Harris of Dallas, and Sibley.

HOUSE BILL 2242 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2242, Relating to regulation of certain herbicides; providing penalties.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Amend **H.B. 2242** as follows:

(1) On page 6, line 31, insert the following after "person" and before "allegedly": "if known."

(2) On page 6, line 36, insert the following after "information" and before "that": "within the person's knowledge."

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Nay" on the adoption of the amendment.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 2242 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2242** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Shapiro, Shelley, Sibley, Sims, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Rosson.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Barrientos and Rosson asked to be recorded as voting "Nay" on the final passage of the bill.

MOTION TO PLACE HOUSE BILL 493 ON SECOND READING

Senator Sibley asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 493, Relating to charges in connection with a fine for violation of a motor vehicle law.

There was objection.

Senator Sibley then moved to suspend the regular order of business and take up **H.B. 493** for consideration at this time.

The motion was lost by the following vote: Yeas 10, Nays 16.

Yeas: Armbrister, Brown, Lucio, Nelson, Parker, Patterson, Shapiro, Shelley, Sibley, Sims.

Nays: Barrientos, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Luna, Moncrief, Montford, Rosson, Truan, Wentworth, West, Zaffirini.

Absent: Bivins, Madla, Ratliff, Whitmire.

Absent-excused: Turner.

COMMITTEE SUBSTITUTE HOUSE BILL 706 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 706, Relating to the establishment of special accounts within the general revenue fund and the allocation of certain revenue from the Limited Sales, Excise, and Use Tax Act to the Parks and Wildlife Department.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Amend **C.S.H.B. 706** by striking all language on page 15, lines 7-21, and substituting in lieu thereof the following:

SECTION 66. Section 154.603(b), Tax Code, is amended to read as follows:

(b) The revenue remaining after the deductions for the purposes provided by Section 154.602 of this code and allocation under Subsection (a) of this section is allocated:

(1) ~~37.5~~ [50] cents per 1,000 cigarettes to the Texas Cultural Endowment Fund established in Section 444.026, Government Code, until September 1, 2004 [state parks fund];

(2) ~~[50 cents per 1,000 cigarettes to the local parks, recreation and open space fund]~~; and

~~[(3)]~~ the remainder to general revenue.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 706 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 706** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2223 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2223, Relating to the dedication of certain funds for the use of the Texas Commission on the Arts.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2223 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2223** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1445 ON SECOND READING**

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1445, Relating to the continuation of the Texas Alcoholic Beverage Commission and to the regulation of alcoholic beverages; providing penalties.

The bill was read second time.

Senator Carriker offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 1445 as follows:

(1) In Section 12, at the end of Section 5.50(b), add a sentence to read:

In setting the surcharge for permittees subject to the mixed beverage tax, the commission shall also recover the reasonable and necessary cost of the administration of the mixed beverage tax by the comptroller.

(2) In Section 106, Subsection (b), strike the words "on the effective date of this act" and substitute "January 1, 1994".

(3) Strike the current Section 107, and substitute the following:

SECTION 107. Sections 5.10(f), 11.491, 25.07, 69.07, and Chapter 50, Alcoholic Beverage Code, are repealed on the effective date of this Act. Sections 204.02(d) and (e), 204.03(b), 205.02(c) and (d), 205.03 and Chapter 202, Alcoholic Beverage Code are repealed January 1, 1994.

(4) In Section 108, between "1993" and the period, insert the following:

"except that Sections 34, 37, 42, 93, 94, 95, 96, and 103 of this Act shall take effect January 1, 1994."

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as "Present-not voting" on the adoption of the amendment.

Senator Carriker offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 1445 as follows:

On page 32 after line 61 add a new Section 92 to read as follows and renumber the remaining sections appropriately:

SECTION 92. Subchapter D, Chapter 109, Alcoholic Beverage Code, is amended by adding Section 109.60 to read as follows:

Sec. 109.60. PURCHASES BY CERTAIN PERMITTEES. For the convenience of the commission in performing its regulatory functions and the comptroller of public accounts in examining tax accounts of mixed beverage permittees and private club permittees, each of these permittees is required to purchase separately and individually for each licensed premises any and all alcoholic beverages to be sold or served on the licensed premises.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as "Present-not voting" on the adoption of the amendment.

Senator Carriker offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.H.B. 1445 as follows:

Amend SECTION 103 by inserting the following:

Sec. 183.055. PENALTY. When additional taxes are established as due based on an examination by the comptroller, a penalty equal to 10 percent of the additional taxes due shall be collected with the additional taxes due.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as "Present-not voting" on the adoption of the amendment.

Floor Amendment No. 4 was not offered.

Senator Shelley offered the following amendment to the bill:

Floor Amendment No. 4A

Amend C.S.H.B. 1445 as follows:

(1) On page 95, line 18, between "all" and "employees", insert "necessary".

The amendment was read and failed of adoption by the following vote:
Yeas 12, Nays 12, Present-not voting 1.

Yeas: Brown, Harris of Tarrant, Leedom, Moncrief, Nelson, Parker, Patterson, Shapiro, Shelley, Sibley, Sims, Wentworth.

Nays: Armbrister, Carriker, Ellis, Harris of Dallas, Henderson, Lucio, Luna, Montford, Rosson, Truan, West, Zaffirini.

Present-not voting: Barrientos.

Absent: Bivins, Haley, Madla, Ratliff, Whitmire.

Absent-excused: Turner.

(Senator Brown in Chair)

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.H.B. 1445 by striking Section 3 in its entirety and renumbering all subsequent sections.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTES

Senators Leedom, Nelson, and Shapiro asked to be recorded as voting "Nay" on the adoption of the amendment.

RECORD OF VOTE

Senator Barrientos asked to be recorded as "Present-not voting" on the adoption of the amendment.

Floor Amendment No. 5A was not offered.

Senator West offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.H.B. 1445 as follows:

On page ___, after line ___, insert a new Section ___ to read as follows and renumber the remaining sections appropriately:

SECTION ___. Chapter 101, Alcoholic Beverage Code, is amended by adding Section 101.75 to read as follows:

Sec. 101.75 CONSUMPTION OF ALCOHOLIC BEVERAGES NEAR SCHOOLS. (a) A person commits an offense if the person consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 600 feet of the property line of a facility that the person knows is a public school.

(b) This section does not apply to consumption at an event duly authorized by appropriate authorities and held in compliance with all other applicable provisions of this code.

(c) An offense under this section a Class C misdemeanor.

The amendment was read.

On motion of Senator West and by unanimous consent, the amendment was withdrawn.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 7

Amend C.S.H.B. 1445, Section 87, by adding new Subsection 109.35(e) to read as follows:

(e) Notwithstanding the requirements of this section or any other provision of law, a municipality with a population of 900,000 or more and having a council-manager form of government has the authority to prohibit the consumption of alcoholic beverages and the possession of open containers of alcoholic beverages on public lands, streets, and parks, and in buildings owned, leased, or otherwise controlled by the municipality and used for municipal purposes.

The amendment was read and failed of adoption by the following vote: Yeas 9, Nays 12, Present-not voting 1.

Yeas: Leedom, Luna, Madla, Nelson, Shapiro, Shelley, Sims, Wentworth, Zaffirini.

Nays: Armbrister, Brown, Carriker, Ellis, Haley, Harris of Dallas, Henderson, Moncrief, Patterson, Rosson, Truan, West.

Present-not voting: Barrientos.

Absent: Bivins, Harris of Tarrant, Lucio, Montford, Parker, Ratliff, Sibley, Whitmire.

Absent-excused: Turner.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 8

Amend C.S.H.B. 1445 by adding the following appropriately numbered section and renumbering the remaining sections of the bill as appropriate:

SECTION ____ Chapter 106, Alcoholic Beverage Code, is amended by adding Section 106.15 to read as follows:

Sec. 106.15. EMPLOYMENT HARMFUL TO PERSONS YOUNGER THAN 21. (a) The commission or administrator shall cancel a license or permit issued under this code if the holder of the license or permit:

(1) employs, authorizes, or induces a person younger than 21 years of age to work on the holders premises:

(A) in a sexually oriented commercial activity; or

(B) in any place of business permitting, requesting, or requiring a person to work nude or topless; or

(2) authorizes or employs another to work on the holder's premises in a sexually oriented commercial activity or in any place of business permitting, requesting, or requiring a person to work nude or topless and does not physically maintain at the premises while the other person is working a valid Texas driver's license or an identification card issued by the Department of Public Safety that contains a physical description consistent with the appearance of the person who is working and that establishes that the person who is working is legally able to be employed on the premises:

(b) In this section:

(1) "Nude" means a person who is:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the person is female, or any portion of the genitals or buttocks.

(2) "Sexually oriented commercial activity" has the meaning assigned that term by Section 43.251, Penal Code.

(3) "Topless" means a female person clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of her breasts below the top of the areola.

The amendment was read.

On motion of Senator Shapiro and by unanimous consent, the amendment was withdrawn.

Senator West offered the following amendment to the bill:

Floor Amendment No. 6A

Amend C.S.H.B. 1445 as follows:

On page ____, after line ____, insert a new Section ____ to read as follows and renumber the remaining sections appropriately:

SECTION ____ Chapter 101, Alcoholic Beverage Code, is amended by adding Section 101.75 to read as follows:

Sec. 101.75. CONSUMPTION OF ALCOHOLIC BEVERAGES NEAR SCHOOLS. (a) A person commits an offense if the person consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 600 feet of the property line of a facility that the person knows is a public or private school that provides kindergarten through twelfth grade or any part thereof.

(b) This section does not apply to consumption at an event duly authorized by appropriate authorities and held in compliance with all other applicable provisions of this code.

(c) An offense under this section is a Class C misdemeanor.

The amendment was read and adopted by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as "Present-not voting" on the adoption of the amendment.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 9

Amend C.S.H.B. 1445 as follows:

(1) Add an appropriately numbered section of the bill to read as follows:

SECTION _____. Section 61.71, Alcoholic Beverage Code, is amended by adding Subsection (f) to read as follows:

(f) The commission or administrator may cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that before the first anniversary of the date a finding is made of a violation of Subsection (a)(5) of this section or a violation of Section 106.03 of this code, the licensee or an agent, servant, or employee of the licensee sold, served, or delivered an alcoholic beverage to a minor. The Commission or administrator shall cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, the licensee or an agent, servant, or employee of the licensee sold, served or delivered an alcoholic beverage to a minor in violation of Subsection (a)(5) of this Section or a violation of Section 106.03 of this code on three separate occasions.

(2) Section 106.13(b), Alcoholic Beverage Code, is repealed and replaced by a new Section 106.13(b), to be inserted in an appropriately numbered section of the bill and to read as follows:

SECTION _____. Section 106.13(b), Alcoholic Beverage Code, is amended to read as follows:

(b) For a second offense the commission or administrator may cancel the license or permit or suspend it for not less than one month nor more than three months. For a third offense the commission or administrator shall cancel the permit.

The amendment was read.

POINT OF ORDER

Senator Carriker raised a point of order that Floor Amendment No. 9 was in violation of Senate Rule 7.16, as it relates to amendments to sunset bills on second reading.

The President ruled that the point of order was well-taken and sustained.

On motion of Senator Carriker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1445 ON THIRD READING

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 1445 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Barrientos.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as "Present-not voting" on the final passage of the bill.

STATEMENT OF LEGISLATIVE INTENT

Senator Carriker submitted the following statement of legislative intent:

Section 87 of C.S.H.B. 1445 sets out a certain procedure that cities may use to control the consumption of alcoholic beverages in a central business district and does not limit the authority cities currently have to otherwise control in this area of law.

CARRIKER

RECESS

On motion of Senator Henderson, the Senate at 12:29 p.m. took recess until 1:30 p.m. today.

AFTER RECESS

The Senate met at 1:30 p.m. and was called to order by the President.

HOUSE BILL 2501 ON SECOND READING

On motion of Senator Shelley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2501, Relating to the regulation of warehouses and certain cotton buyers.

The bill was read second time.

Senator Shelley offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend H.B. 2501 as follows:

(1) Amend page 4, line 7, by striking Subsection (3) and inserting the following new subsection:

(3) "Public Warehouseman" means a person who stores personal property that is not an agricultural commodity for hire and issues a negotiable warehouse receipt for such property.

The committee amendment was read and was adopted by a viva voce vote.

Senator Shelley offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend H.B. 2501 as follows:

(1) Amend page 5, line 12, by striking Subsections (a) and (b) and inserting the following new subsections:

(a) The owner or depositor of property stored in a public warehouse may request from the public warehouseman a negotiable receipt for the property stored in the warehouse.

(b) The receipt shall be signed by the public warehouseman or the warehouseman's agent and state the information required by Section 7.202 of the Uniform Commercial Code.

The committee amendment was read and was adopted by a viva voce vote.

Senator Shelley offered the following amendment to the bill:

Floor Amendment No. 1

Amend H.B. 2501, SECTION 9, by adding Subsection (c) to Section 10 to read as follows (Committee Printing page 4, line 20):

(c) This article does not apply to public warehouses owned, controlled, operated, or leased by motor carriers licensed by and within the jurisdiction of the Railroad Commission of Texas under the provisions of Article 911b, Vernon's Texas Civil Statutes, or their agents.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Shelley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2501 ON THIRD READING

Senator Shelley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2501 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1766 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1766, Relating to the composition of the governing board of the Texas Partnership for Economic Development.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1766 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1766** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Harris of Tarrant in Chair)

COMMITTEE SUBSTITUTE

HOUSE BILL 1952 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1952, Relating to the receipt, management, and expenditure of funds and certain bonds by state agencies and state officials; to the deposit of certain official bonds; to certain reviews of state entities by the comptroller; to the distribution of state publications; and to reporting the use of state vehicles.

The bill was read second time and was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE

HOUSE BILL 1952 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1952** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

HOUSE BILL 2243 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2243, Relating to the regulation of health spas; providing penalties; making an appropriation.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2243 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2243** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

FLOOR PRIVILEGES GRANTED

On motion of Senator Parker and by unanimous consent, floor privileges were granted to two of his staff members during the deliberations on **C.S.H.B. 1461**.

FLOOR PRIVILEGES GRANTED

On motion of Senator Harris of Dallas and by unanimous consent, floor privileges were granted to a member of his staff during the deliberations on **C.S.H.B. 1461**.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
HOUSE BILL 1461 ON SECOND READING**

Senator Parker moved to suspend the regular order of business and all necessary rules to take up for consideration at this time **C.S.H.B. 1461**.

POINT OF ORDER

Senator Henderson raised a point of order that consideration of **C.S.H.B. 1461** was in violation of Senate Rule 5.14(a) as it relates to the printing and laying out of bills placed on the Intent Calendar.

On motion of Senator Henderson and by unanimous consent, the point of order was withdrawn.

Senator Parker then moved to suspend the regular order of business, all necessary rules, and Senate Rule 5.14(a) to take up for consideration at this time:

C.S.H.B. 1461, Relating to insurance regulation and to the continuation, powers and duties of the Texas Department of Insurance and the office of public insurance counsel; providing administrative penalties; making an appropriation.

The motion was lost by the following vote: Yeas 15, Nays 8. (Not receiving four-fifths vote of Members present)

Yeas: Barrientos, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Leedom, Lucio, Moncrief, Parker, Rosson, Shapiro, Sims, Truan, Zaffirini.

Nays: Harris of Dallas, Henderson, Madla, Montford, Nelson, Patterson, Shelley, Wentworth.

Absent: Armbrister, Bivins, Luna, Ratliff, Sibley, West, Whitmire.

Absent-excused: Turner.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1479 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1479, Relating to the regulation of optometry and to the continuation and functions of the Texas Optometry Board; providing penalties.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Amend **C.S.H.B. 1479** as follows:

Amend Article 4552-5.11(g) to read as follows:

(g) This section shall not apply where the manufacturer, wholesaler, or retailer of ophthalmic goods is a licensed optometrist, therapeutic optometrist, or physician or legal entity 100 percent owned and controlled by one or more licensed optometrists, therapeutic optometrists, or physicians[~~however, the exception set forth in this subsection shall not apply where the optometrist, therapeutic optometrist, or legal entity has offices at more than three locations~~].

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1479 ON THIRD READING**

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1479** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 54 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 54, Relating to the establishment of a parental responsibility pilot program to assist certain teenage parents receiving AFDC.

The bill was read second time.

Senator Patterson offered the following amendment to the bill:

Amend **C.S.H.B. 54** on line 38 by deleting "250,000" and substituting "200,000".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 54 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 54** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 644 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 644, Relating to the annual registration of certain farm trailers, farm semitrailers or forestry vehicles.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 644 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 644** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1772 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1772, Relating to the priority for the distribution of the assets of a trust company on its liquidation.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1772 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1772** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 832 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 832, Relating to the civil penalty a municipality may recover for a violation of certain water control ordinances.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 832 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 832** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 859 ON SECOND READING

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 859, Relating to confidentiality of certain information of a customer of a government-operated utility; providing a criminal penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 859 ON THIRD READING

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 859 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 944 ON SECOND READING

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 944, Relating to a licensing exemption for certain foster care facilities providing care to children with acquired immune deficiency syndrome or other terminal illnesses.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 944 ON THIRD READING

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 944 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1429 ON SECOND READING

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1429, Relating to prompt payment to contractors and subcontractors in connection with improvements to real property.

The bill was read second time.

Senator Harris of Tarrant offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 1429 in SECTION 1, Sec. 28.001(4), by adding the words "other than a governmental entity," after the word "entity" and before the word "with".

The amendment was read and was adopted by a viva voce vote.

Senator Harris of Tarrant offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 1429, page 2, line 45, by striking Sec. 28.006 and substituting the following:

Sec. 28.006. NO WAIVER. (a) Except as provided by Subsection (b), an attempted waiver of a provision of this chapter is void.

(b) A written contract between an owner and a contractor for improvements to or construction of a single-family residence may provide that the payment required under Section 28.002(a) be made not later than a date that occurs before the 61st day after the date the owner receives the payment request. Notwithstanding Section 28.004(b), an unpaid amount under contract subject to this subsection that allows payment later than the date otherwise required under Section 28.002(a) bears interest at the rate of 1-1/2 percent each month.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Harris of Tarrant and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

(Senator Zaffirini in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1429 ON THIRD READING**

Senator Harris of Tarrant moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 1429 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1843 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1843, Relating to the placement of print access aids in libraries for use by persons who are visually disabled.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1843 ON THIRD READING

Senator Leedom moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1843** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1377 ON SECOND READING

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1377, Relating to the return of a warrant or check issued by a county.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1377 ON THIRD READING

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1377** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1944 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1944, Relating to certain public retirement systems for police and fire personnel.

The bill was read second time.

Senator Leedom offered the following committee amendment to the bill:

Amend **H.B. 1944** as follows:

(1) In Section 1 of the bill, revised Section 2.01(31) of Article 6243a-1, strike "a defined contribution plan" (House Engrossment, page 8, line 1) and substitute "one or more defined contribution plans".

(2) In Section 1 of the bill, revised Section 5.01(b) of Article 6243a-1, between "to" and "service" (House Engrossment, page 31, line 16), insert "active".

(3) In Section 1 of the bill, revised Section 5.01(c) of Article 6243a-1, between "to" and "service" (House Engrossment, page 32, line 3), insert "active".

(4) In Section 1 of the bill, revised Section 6.09 of Article 6243a-1, strike Subsection (c) (House Engrossment, page 76, line 26, through page 77, line 15) and substitute the following:

(c) The special Group A death benefit under this section is calculated based on the following formula:

$(P \times P \times A) + (P \times C) + D$, where

A = base pay at the time the Group A primary party begins service retirement, dies, or becomes disabled, plus longevity pay, plus one-twelfth of last-received city service incentive pay;

B = Group A primary party's benefit calculated at the time the Group A primary party begins service retirement, dies, or becomes disabled;

P = B/A (expressed as a percentage or a decimal);

C = the number of adjustments made to a Group A primary party's Group A retirement pension or Group A disability pension under Section 6.04 of this article multiplied by the amount of the adjustments; and

D = the number of adjustments made to a qualified surviving spouse's Group A death benefit under Section 6.07 of this article multiplied by the amount of the adjustments.

(5) In Section 1 of the bill, revised Section 6.09 of Article 6243a-1, strike Subsection (e) (House Engrossment, page 78, lines 12-27) and substitute the following:

(e) This special survivor benefit under this section is calculated based on the following formula:

$(P \times P \times A) + (P \times C) + D$, where

A = average monthly computation pay at the time the Group B primary party begins service retirement, dies, or becomes disabled;

B = the Group B primary party's Group B retirement or Group B disability pension calculated at the time the Group B primary party begins service or disability retirement or dies;

P = B/A (expressed as a percentage or a decimal);

C = the number of postretirement adjustments made to a Group B primary party's Group B retirement pension or Group B disability pension under Section 6.05 of this article multiplied by the amount of the adjustments; and

D = the number of adjustments made to a qualified surviving spouse's Group B death benefit under Section 6.08 of this article multiplied by the amount of the adjustments.

(6) In Section 1 of the bill, revised Section 6.11(a) of Article 6243a-1, between "survivors" and "are" (House Engrossment, page 86, line 4), insert ", or an alternate payee of the primary party,".

(7) In Section 1 of the bill, revised Section 6.12 of Article 6243a-1, strike Subsection (b) (House Engrossment, page 90, lines 4-15) and reletter Subsection (c) as Subsection (b).

(8) In Section 1 of the bill, revised Section 6.14(c) of Article 6243a-1, strike "6.04" (House Engrossment, page 93, line 2) and substitute "6.02".

(9) In Section 1 of the bill, revised Section 6.14(c) of Article 6243a-1, between "equal" and "the" (House Engrossment, page 93, line 9), insert "one-twelfth of".

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Leedom and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1944 ON THIRD READING

Senator Leedom moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1944** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(President in Chair)

COMMITTEE SUBSTITUTE HOUSE BILL 2260 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2260, Relating to the transfer of programs from certain executive agencies.

The bill was read second time and was passed to third reading by a viva voce vote.

MOTION TO PLACE COMMITTEE SUBSTITUTE HOUSE BILL 2260 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2260** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 16, Nays 8. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Barrientos, Carriker, Ellis, Haley, Luna, Madla, Moncrief, Montford, Parker, Rosson, Sims, Truan, West, Whitmire, Zaffirini.

Nays: Brown, Harris of Tarrant, Henderson, Leedom, Nelson, Patterson, Shapiro, Shelley.

Absent: Bivins, Harris of Dallas, Lucio, Ratliff, Sibley, Wentworth.

Absent-excused: Turner.

HOUSE BILL 2165 ON SECOND READING

Senator Brown asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 2165, Relating to the liability of a taxing unit for certain costs.

There was objection.

Senator Brown then moved to suspend the regular order of business and take up **H.B. 2165** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 1.

Nays: Ellis.

Absent: Armbrister, Bivins, Haley, Lucio, Luna, Ratliff, Sibley, Wentworth.

Absent-excused: Turner.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2165 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2165** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2747 ON SECOND READING

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2747, Relating to debt collection; providing a penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2747 ON THIRD READING

Senator Harris of Tarrant moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2747** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Turner.

The bill was read third time and was passed by a viva voce vote.

MOTION TO PLACE COMMITTEE SUBSTITUTE

HOUSE BILL 2394 ON SECOND READING

Senator Shelley moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 2394, Relating to the denial, revocation, or suspension of a license to operate a child-care facility and to licensing the facility after revocation.

The motion was lost by the following vote: Yeas 14, Nays 5. (Not receiving two-thirds vote of Members present)

Yeas: Brown, Harris of Tarrant, Henderson, Leedom, Madla, Moncrief, Montford, Nelson, Patterson, Shapiro, Shelley, Sims, Truan, Zaffirini.

Nays: Barrientos, Carriker, Ellis, Parker, Rosson.

Absent: Armbrister, Bivins, Haley, Harris of Dallas, Lucio, Luna, Ratliff, Sibley, Wentworth, West, Whitmire.

Absent-excused: Turner.

NOTICE OF SESSION TO HOLD LOCAL AND UNCONTESTED BILLS CALENDAR

Senator Haley announced that a Local and Uncontested Bills Calendar had been placed on the Member's desks and gave notice that a Local and Uncontested Bills Calendar would be held at 10:00 a.m. Monday, May 24, 1993, and that all bills would be considered on second reading in the order in which they are listed.

RECESS

On motion of Senator Truan, the Senate at 2:55 p.m. recessed until 10:00 a.m. tomorrow for the Local and Uncontested Bills Calendar.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate: May 23, 1993

ADMINISTRATION — H.C.R. 119

**HEALTH AND HUMAN SERVICES — H.B. 2241 (Amended),
C.S.H.B. 756**

FINANCE — H.B. 2263

**HEALTH AND HUMAN SERVICES — H.C.R. 127, H.B. 1114,
H.B. 1641, H.B. 1680, H.B. 1712, H.B. 1884, H.B. 1927, H.B. 2079
(Amended)**